

FRESH CUT FLOWER WHOLESALERS 1992 LIMITED

500 Mt Wellington Highway, Mt Wellington, PO Box 51724, Pakuranga 2140
Telephone: [+ 09 918 - 5330 Facsimile: + 09 918 - 5334]



CONFIDENTIAL APPLICATION FOR CREDIT ACCOUNT

APPLICANT

Business (Trading) Title _____
Business Address _____ Postcode _____
Postal Address _____ Postcode _____
Phone _____ Fax _____
Mobile Phone _____ E-mail _____

IF COMPANY TRADING AS ABOVE, PLEASE GIVE:

Registered Name _____
Registered Address _____ Postcode _____
Date Incorporated _____ INCORPORATION NO.: _____
Directors _____ Address _____
1. _____
2. _____

IF SOLE TRADER OR PARTNERSHIP OWNED, PLEASE STATE FULL NAMES, ADDRESSES AND DATES OF BIRTH OF PROPRIETORS:

	Name	Date of Birth	Address(Street and Postal Address if Different)	E-mail address
1.				
2.				

IS THE BUSINESS A NEW BUSINESS OR EXISTING BUSINESS?

New Existing - date taken over ___ / ___ / ___

TRADING DETAILS

Date commenced business ___ / ___ / ___
Your Estimated Monthly Purchases \$ _____ Credit Limit Request \$ _____
Name of Contact / Accounting Officer _____
Phone _____ Fax _____
E-mail _____ Are Premises Owned or Leased _____

TRADE REFERENCES

	Business Name	Telephone	Fax No
1.			
2.			

GUARANTOR

Name _____
Home Address _____ Postcode _____
Postal Address _____ Postcode _____
Home Phone _____ Mobile Phone _____
Relationship to Applicant _____ Signature _____

HOW TO PAY

By Direct Debit - as per separate direct debit form
 By Credit Card (surcharge applies) - please Debit my: Visa Mastercard
Card Number:
Name on Card (please print): _____
Signature: _____ Expiry _____ / _____

Fresh Cut Flower Wholesalers 1992 Limited ("Fresh Cut")

Terms and Conditions of Sale and Credit

These Terms and Conditions of Sale and Credit are the only basis upon which Goods will be supplied by Fresh Cut to Purchasers. Where sales are Credit Sales, the terms upon which credit is granted are also specified herein. By placing an Order with Fresh Cut, a Purchaser agrees to accept, and comply with, each of these Terms and Conditions of Sale and Credit. Any terms and conditions not contained below or which are inconsistent with these Terms and Conditions of Sale and Credit (other than those implied by statute) will not be binding upon Fresh Cut.

1. Definitions and Interpretation

1.1 In these Terms and Conditions of Sale and Credit, unless the context otherwise requires:

- (a) "Applicant" means an applicant pursuant to an application for credit with Fresh Cut;
- (b) "Credit Sales" means sales of Goods, payment for which is due or made after Delivery;
- (c) "Delivery" means delivery to the Purchaser pursuant to an Order;
- (d) "Goods" means products supplied or to be supplied by Fresh Cut to a Purchaser from time to time;
- (e) "Loss" means any delay, loss, liability, damage, expense or cost whatsoever and includes (without limitation) direct or consequential loss or damage;
- (f) "Order" means any order or request for Goods irrespective of whether or not the Order is in writing (including but not limited to Fresh Cut's current price guide from time to time with the quantities required by the Purchaser endorsed on it signed by the Purchaser and delivered to Fresh Cut);
- (g) "Purchaser" means any person who places an Order with Fresh Cut and includes an Applicant who so places an order and includes such person's agents, employees, executors, administrators, successors and permitted assigns;
- (h) "Terms" means these Terms and Conditions of Sale and Credit; and
- (i) "Fresh Cut" means Fresh Cut Flower Wholesalers Limited, its successors and assigns, of the address appearing on the invoice issued in respect of Goods supplied.

1.2 **In these Terms, the singular includes the plural and vice versa, and a reference to a "person" includes a company, incorporated society, body corporate, partnership or trust.**

2. How a Contract with Fresh Cut is formed

2.1 Each Order placed by a Purchaser amounts to an offer by it to acquire from Fresh Cut the Goods described in the Order upon these Terms. Fresh Cut will accept the offer by delivering or providing all or some of the Goods ordered. The Purchaser acknowledges and agrees that Fresh Cut relies upon this representation in agreeing to deliver or provide those Goods.

2.2 If Fresh Cut agrees to grant the Purchaser credit, Fresh Cut is entitled to rely materially upon any representation made by the Purchaser as to its ability to pay its debts (including all amounts owing or that will be owing to Fresh Cut) and to comply with credit arrangements of Fresh Cut. The Purchaser must provide Fresh Cut with all financial information requested by Fresh Cut in support of an application for the granting of credit.

2.3 Fresh Cut may refuse to sell or supply Goods to the Purchaser (whether as Cash or Credit Sales) and is not required to give reasons for its refusal.

3. Delivery/Provision of Goods

3.1 Even though an Order specifies a quantity of Goods required, and a delivery date, and Fresh Cut accepts the Order, the Purchaser agrees that Fresh Cut is not bound to deliver that quantity on the delivery date so specified. However, Fresh Cut will use best endeavours to do so.

3.2 Fresh Cut may deliver only a portion of the quantity of Goods ordered and invoice accordingly. The Purchaser may not refuse to accept delivery of particular Goods just because Fresh Cut has delivered only a portion of the quantity ordered or because delivery was late. However, if delivery is late, the Purchaser may cancel an Order relating to Goods provided it does so before they are dispatched.

3.3 Unless notified in writing by the Purchaser all Goods will be delivered to the address on the Purchaser's Order.

3.4 Fresh Cut will not be liable for any Loss incurred or suffered by the Purchaser as a result of any delay in delivery of Goods.

4. Price and Payment

4.1 Prices for Goods quoted on price guides may be varied at any time without notice Goods will be invoiced at the then current price for those Goods as at the date of delivery.

4.2 A price guide or similar document of Fresh Cut is not an offer by Fresh Cut to sell any Goods appearing in that guide or document, nor is it an offer to sell such Goods at the price specified in that guide or document.

4.3 Prices do not include transport costs or GST which are payable by the Purchaser on all goods supplied.

4.4 If credit is granted, payment will be due at the time that is notified in writing on the face of any invoice evidencing the delivery or provision of Goods. If, and only if, there is no such time notified or other specific and written agreement then payment must be made in cleared funds for all purchases by the Purchaser up to and including Sunday of one week no later than Wednesday of the following week (which if a Public or Statutory holiday then on the first business day next following such Wednesday).

4.5 Fresh Cut reserves the right at any time to require immediate payment for all Goods supplied or provided. Payment for those Goods will be due immediately upon receipt by the Purchaser of a notice from Fresh Cut that it requires immediate payment.

4.6 The Purchaser agrees that in respect of payment under these Terms, time is of the essence.

5. Default in Payment

- 5.1 If the Purchaser fails to pay any amounts. Fresh Cut may charge interest on all amounts overdue at the rate of 5% above the interest rate for the time being charged by Fresh Cut's main commercial bankers on unsecured commercial overdrafts.
- 5.2 If Fresh Cut incurs any cost relating to the collection or enforcement of payments from the Purchaser. The Purchaser agrees that those monies will form part of the debt due to Fresh Cut and payment will be made by the Purchaser to Fresh Cut on demand.

6. Title and Security

- 6.1 Title to the goods now or in the future sold or supplied by Fresh Cut passes to the Purchaser only on payment in full in cleared funds for all goods. Until all sums due to Fresh Cut have been paid in full, Fresh Cut has a security interest (within the meaning of the Personal Property Security Act 1999 ("PPSA") in all goods now or in the future sold or supplied by Fresh Cut to the Purchaser and in the proceeds arising from the goods. Fresh Cut is authorised by the Purchaser (who will assist Fresh Cut as requested) to register and perfect its security interest as required under the PPSA.
- 6.2 Notwithstanding that title remains with Fresh Cut until payment in full is received, the risk in the goods passes to the Purchaser upon delivery.
- 6.3 Until title to the goods passes to the Purchaser it shall hold the goods and the entire proceeds of the sale or any other proceeds arising from the goods solely as fiduciary for Fresh Cut and the Purchaser shall store the goods separately and in such manner as will clearly identify the goods as the property of Fresh Cut.

7. Returns

- 7.1 Fresh Cut may, at its discretion, accept Goods submitted for return by the Purchaser upon those Terms as are notified by Fresh Cut to the Purchaser. No returns of Goods will be accepted by Fresh Cut unless those Goods are returned in the opinion of Fresh Cut in a re-saleable condition and within 5 hours of Delivery.
- 7.2 Fresh Cut will accept returns of Goods upon mutually agreeable terms where there has been a breach by Fresh Cut of any warranty conferred by law with respect of the Goods. Where the return of Goods are accepted by Fresh Cut under this clause, Fresh Cut's liability to the Purchaser is limited, at Fresh Cut's discretion to either;
- (a) replacing those Goods with equivalent Goods; or
- (b) paying or crediting the Purchaser the cost of acquiring equivalent Goods.
- 7.3 The Purchaser agrees that Fresh Cut is entitled to charge a Returns Administration Fee equal to 20% of the invoice value of any Goods returned to and accepted by Fresh Cut.

8. Goods - Warranty

- 8.1 Notwithstanding that samples or descriptions of Goods may be given to the Purchaser prior to supply such samples and descriptions are by way of identification only and the use of those descriptions or the reference to those samples will not constitute a sale under these Terms as a sale by description or by reference to sample but will constitute a sale of specific Goods as delivered to the Purchaser.
- 8.2 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon Fresh Cut which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on Fresh Cut, Fresh Cut's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute so as to give effect to the provisions of clause 8.1.
- 8.3 Fresh Cut shall not be liable for:
- (a) Any loss or damage of any kind whatsoever including consequential loss whether suffered or incurred by the Applicant or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from goods provided by Fresh Cut to the Applicant; and
- (b) The Purchaser will indemnify Fresh Cut for any physical, direct and indirect damage, loss or cost (including legal and lawyer/client costs) to Fresh Cut or any other person, and will protect Fresh Cut from any claim or proceedings against Fresh Cut, to the extent caused or contributed to by the Purchaser in respect of this contract or by Goods after risk or title has passed to the Purchaser..
- 8.4 Fresh Cut does not provide any warranty that the Goods are fit and suitable for the purpose for which they are required by the Purchaser and shall not be liable if they are not.

9. Matters beyond the control of Fresh Cut

Fresh Cut will not be liable for any Loss suffered by the Purchaser as a result of a failure to observe any of these Terms or as a result of any delay in performance of any obligations due to any cause or circumstances beyond Fresh Cut's control including but not limited to any failure or delay in performance caused by any strikes, lock-outs, labour disputes, fires, acts of God or public enemy, delays in transport, breakdown in machinery, restrictions or prohibitions by any government or any semi-government authorities, embargo's or any other events beyond Fresh Cut's control wherever and whenever they occur.

10. Entire Agreement

Any contract between Fresh Cut and the Purchaser for the supply of Goods will be governed only by these Terms. Fresh Cut will not be bound by any terms and conditions that do not appear in these Terms or are inconsistent with these Terms. However, Fresh Cut may amend the Terms from time to time, but those amendments will not take effect until Fresh Cut has notified the Purchaser in writing of those amendments. Any Orders placed with Fresh Cut after the Purchaser has been notified of amendments to the Terms will be deemed to be offers to acquire Goods upon the amended Terms.

11. Assignment

The Purchaser may not assign, transfer or otherwise dispose of any of the rights or obligations of this or any other contract with Fresh Cut that is subject to these Terms without the prior written consent of Fresh Cut.

12. Conditions applying to Credit Purchases

- (a) All orders for Goods from Fresh Cut are to be made in writing and in such form and containing such content as Fresh Cut may direct from time to time and accurately detail the requirements of the Purchaser. All instructions and /or changes to orders must be in writing and are subject to acceptance by Fresh Cut in its absolute discretion.
- (b) Fresh Cut shall have the right to determine credit limits and vary credit limits at any time without notice, to terminate credit facilities at any time without reason or notice.
- (c) Any person signing the credit application on behalf of the Applicant shall be deemed to warrant that he has authority to bind the Applicant to the terms hereof and the Applicant shall be bound by these conditions as if such person has or had authority to bind the Applicant.
- (d) The Applicant agrees to pay for all Goods provided in the name of the Applicant upon written order where the order purports to be signed for and on behalf of the Applicant regardless of whether the signatory to the order has actual or implied authority to bind the Applicant.
- (e) The credit application gives authority to, and may be used by, Fresh Cut to obtain information available pursuant to the Privacy Act 1993 and to make whatever other inquiries and obtain such other information it deems necessary in the circumstances to determine the acceptability, and continued acceptability of the Applicant for credit facilities and shall be sufficient authority for that purpose.

13. Privacy Act

The Purchaser and/or its directors and/or Guarantor(s) acknowledge(s) that the personal information supplied by all or any of them to Fresh Cut prior to or during the currency of this Agreement is supplied to and may be used by Fresh Cut for the purposes of the parties fulfilling their respective obligations under this Agreement. Fresh Cut is the intended recipient of the information supplied and is for the purposes of the Privacy Act 1993. The party(ies) supplying personal information have the right to have access to and to correct that personal information.

14. Guarantee

If the Purchaser is a company or trust, the director(s) or trustee(s) signing this contract on its behalf ("Guarantor(s)") do so, in consideration of Fresh Cut agreeing to perform its obligations on our part contained herein at the Guarantor(s) request and also sign this contract in their personal capacity to bind each of them personally and jointly and severally as principal debtors and obligors to Fresh Cut for the payment of any and all monies and performance of all obligations now or hereafter owed by the Purchaser to Fresh Cut and to indemnify Fresh Cut against any non-payment and/or non performance by the Purchaser. Any personal liability of a signatory under this guarantee does not exclude or excuse the Purchaser in any way whatsoever from the liabilities and obligations contained in this contract. The Purchaser and the Guarantors shall be jointly and severally liable under the terms and conditions of this contract for payment of all sums and performance of all obligations by the Purchaser under this contract.

It is hereby acknowledged and agreed by the Applicant that these conditions of credit govern the provision of credit to the Applicant and the Applicant warrants that all information contained herein is true and correct.

I/We declare and warrant to Fresh Cut that the credit to be provided by Fresh Cut to us is to be applied wholly or predominantly for business purposes and that the Consumer Guarantees Act is of no application to any credit granted to the Applicant by Fresh Cut.

I/We further agree and declare that if prior to our signature of these Terms we are holding goods from you (or the proceeds thereof) and we have not paid you for these goods in full then the provisions of clause 6 of these Terms will apply to those goods or proceeds in addition to any goods which have been supplied to us subsequent to our signature of these Terms.

Important

By signing this declaration you may lose your protection under the Consumer Guarantees Act. You should not sign this declaration unless this facility is wholly or predominantly for business purposes.

Dated the Day of 20.....

Signed for and on behalf of the Applicant by)
)
 _____)

(PLEASE PRINT NAME AND POSITION)

Direct debit authority - BNZ Template

My account to be debited (acceptor)			
Name of my bank:			
0 0	0 0 0 0	0 0 0 0 0 0 0 0	0 0
Bank	Branch	Account	Suffix

Initiator's authorisation code						
0	2	3	1	0	7	9

Approved	
3107	10/17

From the acceptor to my bank:

I authorise you to debit my account with the amounts of direct debit instructions received from

Fresh Cut Flower Wholesalers 1992 Limited (the 'Initiator') with the authorisation code specified on this authority and in accordance with this authority until further notice from me.

I agree that this authority is subject to:

- my bank's terms and conditions that relate to my account, and
- the terms and conditions listed below.

Authorised signature/s:	Date:
	_____ / ____ / ____

Specific conditions relating to notices and disputes

- 1) I agree that the Initiator must give me at least 5 days' prior notice of each direct debit, including the first direct debit in a series.
- 2) Changes to the amounts or dates of a series of direct debits require 30 days' prior notice to me.
- 3) I can also agree with the Initiator to receive a same day notice for direct debits specifically requested by me.
- 4) All notices must be in writing, but can be delivered electronically, if I have agreed that with the Initiator.
- 5) I can also ask you to reverse a direct debit up to 120 days after the direct debit if:
 - I didn't receive proper notice of the amount and date of the direct debit, or
 - I received notice but the amount or date of the direct debit is different from the amount or date on the notice.
- 6) If you dishonour a direct debit but the Initiator retries it within 5 business days of the original direct debit, I understand that the Initiator doesn't need to notify me again about that direct debit.

For Bank Use Only <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Date Received:</td> <td style="width: 33%;">Recorded by:</td> <td style="width: 33%;">Checked by:</td> </tr> <tr> <td style="height: 20px;"></td> <td style="height: 20px;"></td> <td style="height: 20px;"></td> </tr> </table> Original – Retain at Branch Copy – Forward to Initiator if requested	Date Received:	Recorded by:	Checked by:				<table border="1" style="width: 100%; height: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center; vertical-align: middle;"> BANK STAMP </td> </tr> </table>	BANK STAMP
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