

BC VEGETABLE MARKETING COMMISSION
POLICY

**Grower Marketing Agreements
(GMA)**

GOALS:

- Protect Grower, Agency, and Industry interests in marketing regulated product

OBJECTIVES:

- Growers and Agencies know what is expected of each other;
- The rights of each party in marketing the crop are clearly identified;
- Transparent and complete records of the terms and conditions governing the marketing of the regulated crops;
- Industry wide best practice conduct.

INTERPRETATION:

- Grower Marketing Agreement is interpreted by the General Order as:¹

"Grower Marketing Agreement" or **"Producer Marketing Agreement"** or **"Sales and Marketing Agreement"** means an agreement between a Producer and an Agency which sets out the terms and conditions upon which the Regulated Product shall be provided by the Producer and sold by the Agency.

GENERAL ORDER PART V – AGENCIES:

- An agreement between an Agency and a Producer, which addresses terms and conditions upon which the regulated product shall be provided by the Producer and sold by the Agency (e.g., a Grower Marketing Agreement), shall be reduced to writing consistent with Commission policy)²

GENERAL ORDER PART VII – AGENCY RESPONSIBILITIES:

- Each Agency shall file with the Commission all signed Grower Marketing Agreements with all Producers of Regulated Product shipped through that Agency by June 1st of each year.³

¹ BC Vegetable Marketing Commission Consolidated General Order March 16, 2005 – PART I Introductory Par. 5

² General Order part V, Paragraph 10

³ General Order part VII, Paragraph 9

CODE OF CONDUCT:

- Agencies have fiduciary obligations to the Commission and producers. This means an Agency must fairly, truthfully, and loyally represent the interests of producers and act within the authority granted upon them by the Commission to market BC grown regulated vegetable crops.
- The Licensed Agency has a fiduciary duty to conduct business for the benefit of its regulated vegetable producers and in the interests of the regulated vegetable industry.
- The Licensed Producer has a fiduciary duty to the Agency to produce and supply a quality product that satisfies the Agency's expectations.
- All parties act in good faith for the benefit of the industry.
- Grower Marketing Agreements must be uniformly applied to all producers of regulated product marketing through an Agency and provide similar terms and conditions.
- As set out in the General Order all Agencies are to file with the VMC each GMA that it has entered into with a licensed producer.
- The Producer must have a signed and valid grower marketing agreement with their designated Agency prior to delivering product to the Agency. The Agency is to refuse any product shipped from a grower that is not in possession of a signed and valid GMA.

AGREEMENT PROVISIONS:

- Other than provisions required by the Commission, additional terms and conditions may be added upon mutual agreement between producers and the Agency.
 - Provisions required by the Commission to be included in All GMAs:
1. AGENCY DUTIES
 - 1.1. Representations, warranties, and covenants that comprise the terms under which the regulated product will be marketed by the AGENCY.
 - 1.2. Reference to the legal authority and obligations of a licensed Agency.
 2. PRODUCER DUTIES
 - 2.1. Representations, warranties, and covenants that comprise the terms under which the regulated product will be supplied by the PRODUCER.
 - 2.2. Reference to the legal obligations of a licensed Producer.
 3. PRODUCT QUALITY & FOOD SAFETY
 - 3.1. Assurance that all regulated products meet all regulations and legal requirements as dictated by the laws of the markets being supplied.
 - 3.2. Provisions for managing non-compliant or unmarketable product.
 - 3.3. Commitment by all parties to a recognized third party audited certification program.
 4. SETTLEMENTS
 - 4.1. Each Agency is authorized to and may implement pooling method(s) for the distribution of all proceeds received from the sale of the regulated product. The GMA must include a reference to the pooling program(s) being implemented⁴.
 - 4.2. Payment dates and terms.
 5. DEDUCTIONS - COMMISSIONS, FEES, CHARGES, PENALTIES & LEVIES
 - 5.1. Reference to all fees, charges, Penalties, and Levies as set by the Commission.
 - 5.2. Provides clarity on the application of these deductions.
 - 5.3. All fees and charges for Agency Services must be annually approved by the Commission. Any fee or charge not approved is a nullity.⁵

⁴ General Order PART V Agencies, Par. 12

⁵ General Order PART VII Agency Responsibilities, Par. 12

6. PRODUCT MANAGEMENT

6.1. Market access terms.

- For GMA's with Storage Crop Producers, reference to the application of Delivery Allocation to manage market access.

6.2. Packaging / Re-packing policy.

6.3. Reporting commitments.

6.4. Provides clarity on the management of / deductions for Product Rejections, Claims, and Product of Unmarketable Quality.

7. DISPUTE RESOLUTION

7.1. Reference to the terms to be followed to resolve a dispute.

7.2. The Commission's role in the dispute is to be clearly defined⁶.

8. TERM OF AGREEMENT

8.1. The GMA term is to extend over the period of a Crop Year and apply to the marketing of the regulated product(s) produced in that Crop Year.

- Greenhouse Vegetable Crop Year is January 1st to December 31st
- Storage Vegetable Crop Year is the beginning of the season to June 30th of the following year.

8.2. No GMA is to be any longer than 3 consecutive Crop Years.

8.3. An evergreen provision for the automatic renewal of a GMA is not permitted.

9. NOTICE OF TERMINATION

9.1. GMA's equal or greater than 2 consecutive Crop Years must include a notice of termination clause. The terms agreed to on giving notice must at a minimum require that notice be issued to the other party no later than October 31st in the year prior to the start of a new Crop Year.

⁶ General Order PART V Agencies Par. 17-20 outline the Commission's involvement with reference to persons who are aggrieved by the refusal of an Agency or Processor to accept or market Regulated Product.