

## **PACA Industry Trade Terms**

**Acceptance** – Any act by the receiver that exercises control over a shipment. Once product has been accepted, the right to reject is lost.

**Acts of acceptance** – Examples would be diversion of a load while in transit, unloading the product and failure to give timely notice of rejection.

**Commercial Unit** – A single shipment of one or more perishable agricultural commodities for delivery on a single contract. A commercial unit must be accepted or rejected in its entirety.

**Condition Defect** – The relative degree of soundness or preservation of a product and includes, but is not necessarily limited to, its firmness, or stages of ripeness, decay, shriveling, flabbiness, or any other progressive factor which affects its marketability. Condition defects worsen over time.

**Consignment** – Is NOT a sale. It creates an agency relationship between the consignor and the consignee, where the produce continues to belong to the consignor until the consignee sells it on the consignor's behalf. After such sale, the proceeds of the sale belong to the consignor, with the consignee allowed only to retain expenses of the resale and commission.

**Delivered** – Freight charges are included in the invoice price. The seller assumes all risks of loss and damage in transit not caused by the buyer. Produce sold U.S. #1 must meet all quality and condition requirements for the grade at destination, with no allowance for normal deterioration.

**Effective Rejection** – The receiver gives notice of the rejection to the shipper within a reasonable time, generally 8 hours for truck shipments and 24 hours for rail shipments of fresh fruit and vegetables. An effective rejection may still be wrongful, if the receiver cannot prove a breach of the contract by the shipper.

**F.O.B.** – The commodity is placed “free on board” the carrier at shipping point in “Suitable Shipping Condition”, and the buyer assumes all risks of loss and damage in transit not caused by the seller. This means, for example, that if the load is wrecked or stolen in transit, the buyer must pay the invoice price to the seller, and pursue a claim against the carrier to recover damages.

**F.O.B. Acceptance** – The buyer accepts the product at shipping point and has no right to reject the product. The buyer does, however, have recourse against the seller if the product is not in suitable shipping condition or for material breach of contract, providing the shipment is not rejected. The term “material breach” generally means a breach of contract that is related to factors other than quality and condition, such as; size, variety, label, etc.

**F.O.B. Acceptance Final** – Has the same meaning as “F.O.B. acceptance” except that suitable shipping condition is inapplicable and the buyer's only recourse is for a material breach of contract. Use of this term must be clearly established given the harshness of the conditions it imposes.

**Good Delivery** – Is the term used in F.O.B. sales to describe the arrival of goods at the contract destination without abnormal deterioration, i.e., goods that are shipped in suitable shipping

condition will make “good delivery” at the contract destination. For all commodities other than lettuce (for which specific good delivery standards exist) what is “normal” or “abnormal” deterioration is determined on a case-by-case basis.

**Grade Specified Contract** – The commodity is sold as to a specific U.S. grade. Both quality and condition defects are utilized to determine a breach of contract.

**No Grade Contract** – A U.S. grade is not specified. Only condition defects are utilized to determine a breach of contract.

**Open** – A sale, like any other sale, except that the price has not been settled. An “open” sale is either F.O.B. or delivered, depending upon the agreement of the parties. The purchaser of produce on an “open” sale basis has all the benefits of the normal sales warranties, and may accept, or reject and claim damages if the seller breaches the contract. If the parties fail to agree upon a price, the purchaser of product on an “open” basis is liable to the seller for a “reasonable price.”

**Price After Sale** – Is not defined under the Act, but is similar to “Open”. This term is generally interpreted to mean that the parties will agree on a price after the buyer completes its sale of the product at destination.

**Purchase After Inspection** – Is a purchase of produce after inspection or opportunity for inspection by the buyer or his agent. The buyer has no right of rejection and waives all warranties as to quality and condition, except warranties expressly made by the seller. Note: if this term is to apply, both parties must expressly agree to it.

**Quality Defect** – These defects do not change over time and include, but are not limited to: scars, shape, dirt, etc.

**Shipping Point Inspection Final** – The seller obtains a Federal or Federal-State or private inspection that has been mutually agreed upon, to show that the product meets contract specifications at shipping point. The buyer does not have the right to reject product, and has no recourse against the seller on account of quality, condition or grade.

**Suitable Shipping Condition (SSC)** – SSC applies only to F.O.B. sales, and means that the produce, at time of shipment, is in a condition which if handled under normal transportation conditions will assure delivery at the agreed destination without abnormal deterioration.

**Wrongful Rejection** – Where the buyer, even having made a timely, effective rejection has not established a breach of contract. In an F.O.B. sale, when the buyer rejects product without obtaining an inspection, the seller has the obligation to have the product inspected to show its soundness, or lose recourse for damages caused by the buyers’ wrongful rejection.