



**Production**  
**INSURANCE**  
*for British Columbia*

# Tree Fruit

Policy Wording  
*for*  
The Continuous  
Specified Perils  
Production Insurance  
Contract

This policy contains a clause which may limit the amount payable



Ministry of Agriculture  
[www.gov.bc.ca/agribusinessriskmanagement](http://www.gov.bc.ca/agribusinessriskmanagement)

**Growing Forward 2**   
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## BASIS AND TERM OF CONTRACT

### Definitions

**1.1** In this contract, the following words have the following meanings:

- "Appraised Unharvested Yield" has the meaning given in paragraph 7.2;
- "Assessment" has the meaning given in paragraph 7.4;
- "Cherry Net Production Coverage" means a type of Yield Loss Coverage applicable to sweet cherries only, the indemnity for which is calculated using the formula found in paragraph 8.1(a);
- "Coverage Value" means the value of the Crop which we specify before the Crop Year starts or you select before the Crop Year starts from the choices we offer, as applicable;
- "Crop" means a crop of a Type of Tree Fruit which is insured under this contract;
- "Crop Year" means a period starting on December 1 of a year and ending on November 30 of the next year;
- "Declaration of Production" has the meaning given in paragraph 5.4;
- "Depreciation Factor" means a factor, expressed in percentage, which represents the reduction in value of a Type of Tree Fruit caused by a Quality Peril. The factor is determined by us according to a methodology available for viewing at one of our Business Risk Management Branch Offices before the Crop Year starts: the methodology may specify value reduction thresholds, below which the factor is zero and may specify a maximum factor of less than 100%;
- "Event" has the meaning given to it in section 6.1;
- "Fruit Tree" means
  - (a) a tree that, when mature and healthy, can bear apples, apricots, peaches (including nectarines), pears, sweet cherries, sour cherries, or plums (including prunes), or
  - (b) a Pollinizer;
- "Fruit Tree Loss" has the meaning given in paragraph 2.3;
- "Insurable Value" means the indemnity payable per unit lost which we specify before the Crop Year starts or which you select before the Crop Year starts from the choices we offer, as applicable;
- "Minimum Coverage for Quality Loss" means coverage at the Coverage Value we specify;
- "Notice of Loss" has the meaning given in paragraph 6.1;
- "Pollinizer" means a plant used to pollinate other Fruit Trees insured under this contract;
- "Production Guarantee" means the yield of a Type of Crop that we guarantee for Yield Loss purposes, being either
  - (a) in the case of Cherry Net Production Coverage, the probable Saleable Yield for sweet cherries, or
  - (b) in the case of any other type of Yield Loss coverage, the probable yield of the Tree Fruit,less the deductible you select before the Crop Year starts from the choices we offer, as specified on a Statement of Premiums and Coverages;
- "Quality Peril" means
  - (a) for apples, apricots, peaches (including nectarines), and pears means hail and wind, and
  - (b) for plums (including prunes), sweet cherries (gross yield product only), and sour cherries means rain that splits the skin, hail, and wind;
- "Saleable Sweet Cherries" means sweet cherries that meet or exceed Orchard Run grade standards as per the Fresh Fruit and Vegetable Regulations (Canada)
- "Saleable Yield" means, with respect to sweet cherries, the yield of Saleable Sweet Cherries you produce and harvest in a Crop Year, as modified by section 4.7, if applicable, plus Appraised Unharvested Yield;

- "Statement of Premiums and Coverages" means a document which sets out your coverage details and premiums for a Crop Year;
- "Total Yield" means the yield of a Crop you produce and harvest in a Crop Year, as modified by paragraph 4.7, if applicable, plus Appraised Unharvested Yield (defined in paragraph 7.2);
- "Tree Fruit" means any of apples, apricots, peaches (including nectarines), pears, sweet cherries, sour cherries, and plums (including prunes);
- "Type" means one of apples, apricots, peaches (including nectarines), pears, sweet cherries, sour cherries, and plums (including prunes);
- "us", "we", and "our" refer to the Province of British Columbia alone: they never refer to the combination of you and the Province of British Columbia;
- "Yield Loss" has the meaning given in paragraph 2.1;

### Contract Terms and Formation

- 1.2** The following are included as terms of the contract between you and us:
- (a) your initial application for insurance and your application for specific coverages in each Crop Year, including all representations you make to us in the applications and in any documents we require in support of your applications,
  - (b) this document,
  - (c) all changes to this document that we make and notify you of in accordance with this document,
  - (d) the Statement of Premiums and Coverages for the Crop Year in question, and
  - (e) all terms implied by law, including those applicable terms specified under the Insurance Act, SBC 2012, c. 37 and the Insurance for Crops Act, RSBC 1996, c. 229.

Our acceptance of your original application for insurance creates a contractual relationship between you and us. It continues in force from year to year during your lifetime until terminated according to this document. Details of coverage for each Crop Year are determined in accordance with the procedures described in this contract.

If you do not arrange for and pay for a specific coverage by the appropriate deadline in a Crop Year, you do not have that coverage, even though the contract continues in other respects.

### Changes to Contract

- 1.3** We may change the terms of this contract by notifying you of the change 30 days before the start of the Crop Year affected. We may change, without limitation, the kinds of Crops insurable, the perils covered, premium rates, premiums, insurable value choices, deductible choices, coverage level choices, deadlines, and general terms of coverage. If you do not agree with the change to the contract, you can cancel it by giving written notice (see paragraph 1.5), or you can elect to not have coverage by not paying your premium (see paragraph 4.6) by the due date (see paragraph 10.1).

### Periods of Coverage

- 1.4** Insurance coverage specified on a Statement of Premiums and Coverages is effective
- (a) for Fruit Tree Loss, from the start of the Crop Year until the end of that Crop Year,
  - (b) for Yield Loss and Minimum Coverage for Quality Loss, from the start of the Crop Year until
    - (i) the end of that Crop Year,
    - (ii) for any portion of a Crop, the day that portion is harvested, or
    - (iii) the day when, in our opinion, the harvesting of the Crop should have been completed,whichever is earlier,
  - (c) for any additional Quality Loss coverage purchase above the Minimum Coverage for Quality Loss and for Optional Coverage for Quality Loss:
    - (i) in respect of sweet cherries (gross yield product only) or sour cherries, from 12:00 noon on the 4th day following payment in full of the premium,
    - (ii) in respect of any other Type of Tree Fruit, from 12:00 noon on the 2nd day following payment in full of the premium,until:
    - (iii) the end of that Crop Year,
    - (iv) for any portion of a Crop, the day that portion is harvested, or

- (v) the day when, in our opinion, the harvesting of the Crop should have been completed,
- whichever is earlier.

### **Termination - You Must Give Us Written Notice**

- 1.5** You may terminate this contract by giving us written notice. The notice takes effect immediately before the start of the next Crop Year.

### **Contract Ends upon Death**

- 1.6** In the event of your death, the contract terminates either
- (a) at the end of the Crop Year in which death occurs or
  - (b) on the day that your insurable interest ceases to be part of your estate,
- whichever is the earlier.

### **No Transfer Of Insurance Without Consent**

- 1.7** If you transfer all or part of your insurable interest ( by selling or otherwise) you must tell us immediately and the contract with respect to the transferred portion

terminates at the time of the transfer. Any applicable reduction in premium due for optional coverages is determined according to a methodology available for viewing at one of our Business Risk Management Branch Offices before the Crop Year starts.

The contract does not terminate if we, you, and the transferee agree to substitute the transferee for you concerning that transferred interest. We may refuse to agree or we may vary the terms of the contract as a condition of agreeing.

### **No Indemnity Unless You Retain Insurable Interest**

- 1.8** To be eligible for an indemnity, you must retain the insurable interest in the insured property until we have finished the adjusting process.

### **Limitation of Actions**

- 1.9** Every action or proceeding against an insurer for the recovery of insurance money payable under this contract is absolutely barred unless commenced within the time set out in the Insurance Act.

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## **PERILS AND COVERAGE CONDITIONS**

### **Yield Loss Coverage**

- 2.1** If you obtain coverage for Yield Loss for a Type of Tree Fruit, we must indemnify you for any reduction ("Yield Loss") in Total Yield of a Crop below the Production Guarantee for Yield Loss purposes caused by any of the following:
- (a) hail;
  - (b) excessive moisture, including rainfall and flooding;
  - (c) drought;
  - (d) wind;
  - (e) landslide;
  - (f) extreme heat;
  - (g) fire;
  - (h) freeze;
  - (i) snow;
  - (j) spring frost;
  - (k) poor pollination due to adverse weather; or
  - (l) uncontrollable deer or elk.

Where this section applies to Cherry Net Production Coverage, the phrase "Total Yield of a Crop" in this section is replaced with the phrase "Saleable Yield of sweet cherries".

The formula for calculating Yield Loss indemnity is found in paragraph 8.1.

### **Minimum Coverage for Quality Loss**

- 2.2** If you obtain Minimum Coverage for Quality Loss for a Type of Tree Fruit, we must indemnify you for a reduction in value of a Crop caused by a Quality Peril. The reduction in value must exceed a threshold level to qualify (see definition of Depreciation Factor)

The formula for calculating the indemnity for Minimum Coverage for Quality Loss is found in paragraph 8.2.

Despite the above, if you hold Cherry Net Production Coverage, we will not indemnify you for Minimum Coverage for Quality Loss for sweet cherries.

## **Fruit Tree Loss Coverage**

**2.3** If you obtain coverage for loss of Fruit Trees, we must indemnify you for damage ("Fruit Tree Loss") to a Fruit Tree caused by

- (a) drought;
- (b) freeze;
- (c) landslide;
- (d) excessive moisture – including rainfall or flooding in quantities sufficient to destroy the tree;
- (e) uncontrollable deer or elk;
- (f) fire;
- (g) wind;
- (h) ice or snow;
- (i) uncontrollable fruit tree diseases for which no known control methods exist; or
- (j) viral diseases for which there are no known control methods;

which, in our opinion, renders the Fruit Tree incapable of producing at least 60% of the previous Crop Year's yield (blossoms in the case of a Pollinizer) in the Crop Year following the loss.

The formula for calculating Fruit Tree Loss indemnity is found in paragraph 8.3.

To be eligible for Fruit Tree Loss coverage, you must meet all of the following conditions:

- (a) You must request coverage for all eligible Fruit Trees that you own or lease.
- (b) You must own or have a minimum 5 year lease of the Fruit Trees and have a right to occupy the lands upon which they grow.
- (c) You must, before the Crop Year starts, provide us with a list of all those Fruit Trees by Type, variety, age, planting date, and spacing and a map showing their location.

To be eligible for Fruit Tree Loss coverage, a Fruit Tree, except a Pollinizer

- (a) must have been in its permanently planted position since before May 1 of the Crop Year preceding the Crop Year for which insurance is requested, and
- (b) if grafted or budded, must have been grafted or budded at least 12 months prior to the start of the Crop Year;

### **You Must Request Minimum Coverage**

**2.4** If you request insurance, other than Cherry Net Production Coverage, for a Type of Tree Fruit under this contract, you must request, at a minimum

- (a) Yield Loss coverage at the maximum deductible and minimum Insurable Value we specify,
- (b) Minimum Coverage for Quality Loss (or Optional Coverage for Quality Loss covering the entire crop of that Type of Tree Fruit you grow on land you own or lease as of the start of the Crop Year), and
- (c) Fruit Tree Loss coverage at the maximum deductible and minimum Insurable Value we specify.

**2.4.1** If you request Cherry Net Production Coverage under this contract, you must request, at a minimum

- (a) Cherry Net Production Coverage at the maximum deductible and minimum Insurable Value we specify, and
- (b) Fruit Tree Loss coverage at the maximum deductible and minimum Insurable Value we specify.

**2.4.2** You must pay the premiums by the due date (see paragraph 10.1) for all the minimum coverages that we offer to you. If you do not pay all premiums, you have no coverage at all.

### **Optional Coverage for Quality Loss**

- 2.5** If you obtain Optional Coverage for Quality Loss of a Crop, we must indemnify you for a reduction in value of the Crop on each separately covered lot caused by a Quality Peril. The reduction in value must exceed a threshold level to qualify (see definition of Depreciation Factor).

The formula for calculating an indemnity for Optional Coverage for Quality Loss is found in paragraph 8.4

Despite the above, if you hold Cherry Net Production Coverage, we will not indemnify you for Optional Coverage for Quality Loss for sweet cherries.

### **Applications for Sweet Cherry Coverage**

- 2.6** If you apply for Yield Loss coverage for sweet cherries, you may only apply for either

- (a) Cherry Net Production Coverage, or
- (b) standard Yield Loss coverage applicable to the gross production of the sweet cherry Crop.

- 2.6.1** If you apply for Cherry Net Production Coverage, you may not apply for Minimum Coverage for Quality Loss or Optional Coverage for Quality Loss for sweet cherries.



## EXCLUSIONS FROM COVERAGE

### Exclusions

#### 3.1 No indemnity is payable for

- (a) any loss that you could control, including, without limitation, loss resulting from poor management, negligence, or breach of this contract,
- (b) damage occurring after harvest,
- (c) damage to a Fruit Tree caused by deer or elk, if the Fruit Tree is not protected by deer fencing built according to guidelines we publish, or

- (d) any loss caused by another person, including, without limitation, by vandalism.

### We Decide What You Can Control

- 3.2 We may, in our sole discretion, decide, for the purposes of paragraph 3.1, what you can control, but we must act reasonably in making this decision. If an excluded event causes a loss, we may deny the claim or reduce the indemnity by applying an Assessment.

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## UNDERWRITING AND ANNUAL REVISION OF COVERAGE DETAILS

### Deadline For Changes In Coverage

- 4.1 If you want coverage different from the previous Crop Years' (except concerning Optional Coverage for Quality Loss), we recommend you notify us in writing at least 30 days before the Crop Year starts. In any event, you must request changes and give us all the information we require in support before the Crop Year starts for all coverages other than Optional Coverage for Quality Loss.

- (a) provide you a Statement of Premiums and Coverages for Yield Loss coverage, Minimum Coverage for Quality Loss, and, if you qualify, Fruit Tree Loss coverage for the ensuing Crop Year or
- (b) decline to offer you insurance.

### Deadline For New Applications

- 4.2 Persons who are not already insured under the Tree Fruit production insurance program must apply for insurance and provide all the information we require in support before the Crop Year starts.

### Statement Of Premiums And Coverages For New Applicants Or If Changes

- 4.5 If you apply for insurance before the deadline or request changes to your policy before the deadline (except for Optional Coverage for Quality Loss in either case), we must, before the Crop Year starts or within 15 days after your application or change request, whichever is later, either

### We May Stop Offering Coverage

- 4.3 We reserve the right to stop offering any or all types of insurance coverage in any or all areas at any time. We will consider applications in order of their receipt in the meantime.

- (a) provide you a Statement of Premiums and Coverages for the ensuing Crop Year or
- (b) decline to offer you insurance.

### Statement Of Premiums And Coverages If No Changes

- 4.4 If you are already insured under the Tree Fruit production insurance program, we must, 30 days before the Crop Year starts, either

### Accepting Our Offer Of Coverage

- 4.6 Your payment of premium for a coverage by the due date (see paragraph 10.1) is your acceptance of our offer of that coverage described in the Statement of Premiums and Coverages: if we do not receive payment by the due date, you are deemed to have rejected our offer and elected to not have that coverage for the ensuing Crop Year.

### **You Must Request Coverage For All Of Your Crop/Trees**

**4.7** If you request Yield Loss coverage or Minimum Coverage for Quality Loss for a Type of Tree Fruit, you must request that coverage for the entire crop of that Type of Tree Fruit you grow on land you own or lease as of the start of the Crop Year. If you do not request coverage for the entire crop, production from the uninsured land will be included in the yield of that Crop for adjusting purposes, even though we do not increase your Production Guarantee or Coverage Value. For certainty, in the case of Cherry Net Production Coverage, Saleable Sweet Cherries produced on uninsured land will be included in the calculation of Saleable Yield.

If you request Fruit Tree Loss coverage, you must request Fruit Tree Loss coverage on all Fruit Trees that you own or lease at the start of the Crop Year.

If you request Optional Coverage for Quality Loss for a Type of Tree Fruit grown on a lot (as defined by each legal description on the description of your land you give us with your application) you must request coverage for the entire crop of that Type of Tree Fruit you grow on that lot.

### **We May Deny Coverage**

**4.8** We may, in our sole discretion, refuse to provide you insurance coverage by giving you written notice before coverage starts. We may, without limiting the scope of our discretion, refuse coverage based on

- (a) the area and the site used to grow the trees that will bear the Crop,
- (b) the variety of the Fruit Trees or Crop,
- (c) the health and vigor of the trees that will bear the Crop, whether damaged by uninsurable causes or otherwise, and
- (d) for Optional Coverage for Quality Loss, damage from Quality Perils having already occurred.

### **We May Specify Conditions**

**4.9** We may require you to meet conditions to be eligible for insurance coverage.

### **Underwriting In Our Sole Discretion**

**4.10** We have the sole discretion to determine underwriting matters, including, without limitation, to establish probable yield of a Crop, premium rates, premiums, deductible level choices, insurable value choices, and coverage value choices. You have no right to appeal underwriting decisions.

### **Optional Coverage for Quality Loss**

**4.11** You may apply for Optional Coverage for Quality Loss at any time (but see paragraph 1.4(c) for coverage end date). You must give us full details of the Type of Tree Fruit and the lots you want covered. If you do this, we must either decline to make an offer or make an offer specifying coverage terms, including the Coverage Value for the lot(s) in question and applicable premiums. Payment of the premium is your acceptance of our offer: insurance is not in effect until several days after you pay (see paragraph 1.4(c) re: effective date of coverage).

If a Quality Peril causes damage to the crop on the lot to be covered before the coverage is scheduled to come into effect, Optional Coverage for Quality Loss does not come into effect: we must refund your premium for that area if you promptly advise us that loss caused by a Quality Peril has occurred, as required by paragraph 5.2(b).

### **Termination of Contract – Failure to Obtain Coverage**

**4.12** If you have not obtained coverage for two consecutive Crop Years and do not obtain coverage at the start of the next Crop Year, this contract terminates at the start of that Crop Year. If you wish to again obtain coverage, you will have to reapply.

## **YOUR DUTIES**

### **Information You Give Must Be Accurate**

**5.1** You represent and warrant that all information you have provided, and promise that all information you will provide, to us related to this contract is correct and true.

### **You Have A Duty Of Good Faith And Full Disclosure**

**5.2** This is a contract of insurance. We will not necessarily make an inspection before the start of the Crop Year. We will rely on the information you provide us. You owe us the duty of utmost good faith and full disclosure required by the common law of insurance. This includes, without limitation, the duty to

- (a) accurately disclose to us all details of your growing operation which may affect our risk in insuring you, including the condition of the trees used to grow the Crop, the condition of the equipment used to manage the Crop and trees, changes in the lands that you farm, and your history of losses and production,
- (b) promptly report to us the occurrence of loss caused by a Quality Peril or any peril listed in sections 2.1 or 2.3 before any coverage for Quality Loss you have applied for comes into effect, and
- (c) promptly report to us any change in circumstance or Crop management technique that may affect this contract or an indemnity or premium due under it.

### **Crop Management**

**5.3** You must care for and manage the Crop and trees that will bear it according to recognized agricultural management practices and horticultural techniques: this includes taking reasonable precautions to avoid damage from all hazards, insured or not.

### **Keep Records And Declare Production**

**5.4** You must keep complete records of Tree Fruit that you produce, harvest, sell, and otherwise come into possession of or dispose of, whether insured or not, by Type of Tree Fruit, variety, lot, and weight. You must, upon completing harvest, complete, sign, and deliver to us a document (a "Declaration of Production") in a form we specify, which gives full details of those records.

## **Right To Enter And To Inspect Records**

- 5.5** You must allow any agent we appoint, at any reasonable time, to enter upon your land to
- (a) inspect and measure your land and any crop or tree grown or stored on it,
  - (b) determine whether a proposed Crop or tree that will bear it is acceptable for insurance,
  - (c) inspect any record that you are required by this contract to keep,
  - (d) ensure that the terms of this contract are being complied with, and
  - (e) adjust a claim for indemnity, including, without limitation, determine the extent and cause of loss, the size of the area involved, and the number and age of Fruit Trees and which of them are no longer economical to maintain.

## **Right To Records Held By Others**

**5.6** You authorize us to inspect any records held by other persons pertaining to your Crop or trees and direct those other persons to disclose those records to us. You must confirm that direction to those persons upon our request.

## **You Must Provide Information**

**5.7** You must give us the information required by this document by the times specified and must provide, on demand, all information that is, in our opinion, relevant to underwriting or to determining a claim for indemnity.

## **You Must Show Insurable Interest**

- 5.8** You must, upon request, provide us with
- (a) full details of the location of the lands upon which the Crop or trees that produce it are located,
  - (b) evidence of your interest in those lands, and
  - (c) evidence that you have an insurable interest in the crops and trees insured under this contract.

### **Report Acquired (Uninsured) Crops Immediately**

**5.9** If, after coverage in a Crop Year starts, you acquire, by ownership or lease, land which produces Crop of a Type for which you are covered under this contract, you must tell us about it immediately.

### **Store Crop In A Way That It Can Be Measured**

**5.10** You must store all Crop insured under this contract, including discarded Crop, separately from production not insured under this contract and in such a way that we can accurately measure its quantity when adjusting a claim for indemnity.

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## **NOTICE OF LOSS**

### **You Must Give Detailed Notice Of Loss**

**6.1** Each time you become aware of an event that has the potential to damage the Crop or Fruit Trees (an "Event"), you must give us a notice ("Notice of Loss") that describes

- (a) the Event,
- (b) the date(s) the Event occurred,
- (c) and the location of the land on which the potentially damaged Crop or Fruit Trees grow,
- (d) the Crop or Fruit Trees potentially damaged,
- (e) any agronomic conditions or symptoms observed that indicate there may potentially be damage to the Crop or Fruit Trees,
- (f) the potential damage to the Crop, estimated in terms of yield or value potentially reduced, as applicable,
- (g) the number and location of any Fruit Trees potentially damaged.

### **How To Give A Notice Of Loss**

**6.2** You may give the Notice of Loss by telephone, in person, or by mail, delivery, or fax. Upon receiving notice, we must give you a confirmation number. If you do not receive a confirmation number within 14 days of giving the Notice of Loss, you must tell us immediately. You are deemed not to have given the Notice of Loss any earlier than 14 days before you tell us that you did not receive the confirmation number.

### **Deadline For Giving Notice Of Loss**

**6.3** You must give us a Notice of Loss at the earliest of the following:

- (a) the date(s) you become aware of an Event,
- (b) with respect to each variety of a Crop which is damaged, the start of harvest of any portion of that variety for which a claim for indemnity is made,
- (c) the end of the period of coverage in the relevant Crop Year (see paragraph 1.4).

If a Notice of Loss is not received by the required time, we may deny the whole claim or reduce it by an Assessment to take into account the harm caused us by your late notice.

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## **ADJUSTING LOSS**

### **We May Require Crop To Mature**

**7.1** After inspecting a Crop, we may require you to allow the Crop to mature.

### **Permission To Abandon Crop**

**7.2** If you claim an indemnity for a Crop, you must harvest within a reasonable time after it matures all Crop of that Type unless we give written consent not to harvest (any Crop that you refrain from harvesting with our written consent is defined as "Appraised Unharvested Yield").

In the case of Cherry Net Production Coverage, only Saleable Sweet Cherries will be considered as Appraised Unharvested Yield.

### **Removing Fruit Trees**

**7.3** If you claim an indemnity for Fruit Tree Loss, you must not remove any Fruit Trees before we give written consent.

To be eligible for indemnity for Fruit Tree Loss

- (a) you must tell us in writing, in a form we approve, how many Fruit Trees suffered Fruit Tree Loss. You must do this before the end of the Crop Year in which the damage occurred; and
- (b) you must remove all damaged Fruit trees once we give written consent to do so. Once you have done this you must tell us so we may inspect what you have done.

### **We May Reduce Indemnity (Assessments)**

**7.4** We may reduce the indemnity otherwise payable by deducting an amount (an "Assessment") to take into account losses attributable to uninsured causes, including, without limitation

- (a) poor management and tree and crop care practices,
- (b) losses caused by uninsured hazards,
- (c) losses excluded by paragraph 3.1,
- (d) removal of trees or Crop,
- (e) unrecorded Crop disposal,
- (f) pruning,
- (g) not harvesting Crop within a reasonable time after it matures,
- (h) abandoning Crop without obtaining written consent,
- (i) not giving a Notice of Loss by the required deadline (see paragraph 6.3 and subject to our considering the claim at all), and
- (j) your breach of this contract, including falsely describing the nature of, location of, acreage of, or yield of a Crop, knowingly misrepresenting or not disclosing any facts required to be disclosed, or failing to discharge your duty of good faith and full disclosure to us.

### **We Have Right to Determine Yield, Assessments, And Quality**

**7.5** We may determine Total Yields, Saleable Yield, causes of loss, amounts of loss, Assessments, and Depreciation Factors by the most practical and reasonable methods available, including, without limitation, sampling, inspecting, measuring, estimating, reviewing documents, comparing records of production from nearby lands, and using information you provide. If there is a discrepancy between information you provide and information we obtain from other sources, we may use the latter to determine an indemnity.

### **Separate Adjustment**

**7.6** The following are adjusted separately and the indemnities and any applicable deductibles are calculated separately:

- (a) Loss of Fruit Trees,
- (b) Yield Loss of each Type of Tree Fruit,
- (c) Losses covered by Minimum Coverage for Quality Loss of each Type of Tree Fruit,
- (d) Losses covered by Optional Coverage for Quality Loss of a Type of Tree Fruit for each separate lot covered.

### **Adjusting Costs Covered**

**7.7** You are obliged to pay all premiums associated with the adjusting process. We must indemnify you for these costs and, therefore, there will be no net additional cost to you.

## INDEMNITY CALCULATIONS

### Yield Loss Indemnity

- 8.1** An indemnity for Yield Loss is calculated according to the following:
- (a) for Yield Loss of sweet cherries covered under Cherry Net Production Coverage, in accordance with the following formula:  
  
(Production Guarantee - Assessments - Saleable Yield) X Insurable Value
  - (b) for Yield Loss of a Type of Tree Fruit in any other case, in accordance with the following formula:  
  
(Production Guarantee - Assessments - Total Yield) X Insurable Value.

### Minimum Coverage for Quality Loss Indemnity

- 8.2** An indemnity for Minimum Coverage for Quality Loss of a Type of Tree Fruit is calculated according to the following formula:
- The lesser of:
- (a) (Coverage Value - Assessments), or
  - (b) (Total Yield X Minimum Available Insurable Value for Yield Loss), X Depreciation Factor for the Crop.

### Fruit Tree Loss Indemnity

- 8.3** An indemnity for Fruit Tree Loss is calculated according to the following formula:
- (the number of Fruit Trees suffering Fruit Tree Loss and removed with our written consent - Assessments) X Insurable Value
- minus the deductible we specify or, if applicable, which you select before the Crop Year starts from the choices we offer.

### Optional Coverage for Quality Loss Indemnity

- 8.4** An indemnity for Optional Coverage for Quality Loss of a Type of Tree Fruit is calculated according to the following formula:
- (Coverage Value for each separately covered lot - Assessments) X Depreciation Factor for that lot.

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## INDEMNITY PAYMENT

### Things That Must Happen Before Indemnity Is Payable

- 9.1** We may withhold payment of an indemnity until any one or more of the following, as we in our discretion may specify, occurs:
- (a) the Crop is harvested,
  - (b) you provide a Declaration of Production and we verify its contents,
  - (c) you establish that an insured peril caused the loss,
  - (d) you provide evidence of the removal of Fruit Trees for which a Fruit Tree Loss claim is made,
  - (e) you provide a Canada Revenue Agency income tax reporting number, or
  - (f) you provide a statutory declaration attesting to any representation you make to us for the purpose of obtaining an indemnity.

### Payment And Claim Summary Report

- 9.2** Within 30 days after determining the amount of indemnity payable for an Insurable Loss, we must pay you and provide you with a claim summary report showing the amount of indemnity and the calculations used to determine it.

### Cashing Cheque Means Satisfaction

- 9.3** If you cash an indemnity cheque issued by us as final settlement for a claim of loss, you admit that your claim is satisfied.

### Set-Off

- 9.4** If you owe us money, we may set-off against that debt any money that we owe you.

### **Assigning Indemnity**

**9.5** An indemnity under this contract is not assignable unless

- (a) we give written consent to the assignment and
- (b) the assignment is made to a single assignee.

### **Only One Assignment Allowed**

**9.6** You must not have more than one assignment of indemnity under this contract outstanding at any one time.

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## **PREMIUM PAYMENT**

### **Premium Due Date**

**10.1** You must pay the premium due for each Crop Year before

- (a) the start of the Crop Year or
- (b) the 15th day after the approval date on the Statement of Premiums and Coverages,

whichever is later.

There is no due date for premium for any coverage for Optional Coverage for Quality Loss or any increase in coverage for Quality Loss you have applied for, but coverage is not effective until several days after we receive payment (see paragraph 1.4).

### **No Liability for Refusing Credit**

**10.2** We are not liable for any loss you suffer relating to our refusal to extend credit for premium payment.

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## **GENERAL**

### **Errors And Omissions**

**11.1** We may correct clerical or mathematical errors or omissions made in this contract, or in other communication between us and you, and may make any resulting changes.

### **Subrogation**

**11.2** If we pay you an indemnity, we are subrogated to your rights concerning the loss. For example, we are entitled to demand that you transfer to us your rights in the damaged property and any right of action you may have against any person, by reason of whose conduct we are obliged to pay the indemnity.

### **Notices**

**11.3** A notice from us to you or from you to us must be in writing and may be given in person or by fax or mail unless this contract specifies otherwise.

### **Waiver**

**11.4** No waiver of any term or of any breach of this contract is effective unless it is in writing, signed by us.

## **IF YOU BREACH CONTRACT**

### **Remedies**

**12.1** If you breach a term of this contract, falsely describe the nature of, location of, acreage of, or yield of a Crop, knowingly misrepresent or do not disclose any facts required to be disclosed, or fail to discharge your duty of good faith and full disclosure to us, we, unless we have consented in writing to the conduct, may at our option, do any or all of the following:

- (a) terminate the contract,
- (b) continue the contract but cancel insurance coverage and pay no indemnity for the current Crop Year, or
- (c) continue the contract but apply an Assessment to the indemnity otherwise payable.

### **No Indemnity Unless Notice Of Loss Properly Given**

**12.2** We are not obliged to pay you unless you provide a Notice of Loss complying with this contract.

### **Contractual Remedies Not A Bar To Other Claims**

**12.3** If we exercise any of the options in paragraph 12.1, we can still claim damages for any losses incurred as a result of your breach.

### **No Refund Of Premium**

**12.4** The premium for the Crop Year is deemed earned if we exercise any of the options in paragraph 12.1 or the contract terminates due to death.

### **Effect On Premium Of Overstating Insurable Interest**

**12.5** If you overstate the quantity of the crops and trees to be insured, you must pay premium on the basis of that overstatement, even though we use the actual measured quantities to recalculate the insurance coverage and determine the amount of any indemnity.

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## **ARBITRATION**

### **Right To Appeal**

**13.1** You may appeal a decision of ours, except an underwriting decision, that

- (a) affects the amount of indemnity or
- (b) terminates the contract.

### **How To Appeal**

**13.2** If you want to appeal, you must

- (a) deliver to us within 30 days after receiving the decision, a written notice of appeal stating
  - (i) full details of the loss, including date, location, and cause and
  - (ii) the grounds for the appeal and
- (b) submit with the notice of appeal a deposit in the form of a certified cheque payable to the Minister of Finance in an amount equal to
  - (i) \$100.00,

- (ii) for an appeal concerning Yield Loss only, one percent of the Production Guarantee for that Type of Tree Fruit times the Insurable Value for that Type of Tree Fruit,

- (iii) for an appeal concerning Fruit Tree Loss, one percent of the insured Fruit Trees times the Insurable Value of Fruit Trees

- (iv) for an appeal concerning Minimum Coverage for Quality Loss, one percent of the Coverage Value for that Type of Tree Fruit, or

- (v) for an appeal concerning Optional Coverage for Quality Loss on a specific lot for a Type of Tree Fruit, one percent of the Coverage Value for the crop on the lot in question

whichever is greater.



### **Hearing**

**13.3** If you file an appeal in accordance with paragraph 13.2, we must appoint a single arbitrator and request the arbitrator to conduct an oral hearing of the appeal at a time and place set by the arbitrator. We are responsible for paying for the arbitrator's services. If you do not comply with paragraph 13.2, the arbitrator has no jurisdiction to hear the appeal.

### **Procedures**

**13.4** The arbitrator has the jurisdiction to determine all procedures in the appeal.

### **Decision Binding**

**13.5** The arbitrator's decision is final and binds you and us.

### **Written Reasons**

**13.6** The arbitrator is directed to give written reasons for the decision.

### **Arbitration Act**

**13.7** The Arbitration Act, R.S.B.C. 1996, c. 55 applies, except where it is inconsistent with this contract and except its provisions concerning costs, including, without limitation, section 11.

### **Appeal Deposit**

**13.8** The appeal deposit must be refunded if the appeal is allowed, but is forfeited to us if the appeal is dismissed.