



Zespri Loyalty Contract (2018)

(Three Year Rolling Grower Contract)

Please complete this form if:

- You have not previously signed the Three Year Rolling Grower Contract. (Complete Parts A and B, then Part C).
- You have made a change to your contract options that will result in a new Grower Number (e.g. you have changed packing facility, contract options or purchased another orchard or crop). (Complete Part B, then Part C).
- You need to update your payment details e.g. if your bank account or GST numbers have changed. (Complete Part B, then Part C).

The Three Year Rolling Grower Contract is available to all Growers, irrespective of choices you have made about your 2018 Supply Agreement.

Legal Entity Name of Grower _____ Grower Number _____

Property Address _____

The Grower is defined as either the owner or the lessee (with a lease of one year or more) of a property who holds title to Class 1 Kiwifruit while it is on the vine.

Part A: Agreement to Enter Contract

I agree to enter into the 2018 Three Year Rolling Grower Contract with Zespri for all of my Class 1 Kiwifruit produced on all KPIN's I own or control, (excluding kiwifruit sold in New Zealand or exported for consumption to Australia) "Trays", and become entitled to receive a Loyalty Premium of 25 cents (plus GST) per Tray of Class 1 Kiwifruit supplied to Zespri at FOBs in the relevant season, and if after paying the Loyalty premium the NZ Supply EBIT would be more than 1.00% of Net Sales (excess EBIT), an additional amount per tray equal to half the excess EBIT, divided by total Trays supplied to Zespri at FOBs by all Growers that have signed a Three Year Rolling Grower Contract with Zespri, plus GST.

I agree to the terms and conditions of the Three Year Rolling Grower Contract, full details of which are available on <http://canopy.zespri.com> or from the Zespri Grower Support Services Ph: 0800 155 355, email: contactcanopy@zespri.com

I acknowledge that the description of the Loyalty Premium above and the summary of the contract terms and conditions overleaf are general descriptions only, and that the full contract terms and conditions, and not the general descriptions, are legally binding on Zespri and myself.

I acknowledge that any previous Zespri Three Year Rolling Grower Contract or Enhanced Three Year Rolling Grower Contract that I am a party to, either directly or via agency agreement, will be terminated.

Part B: Payment Details

I wish to assign irrevocably my Loyalty Premium to:

Full Name of Assignee _____

Zespri will notify the relevant assignee (if any) of the Loyalty Premium assignment in place for any season and will obtain and rely on bank account information provided by that assignee.

OR

I wish my Loyalty Premium to be paid direct to me. Payment should be made to the following account.
(Any changes in bank account details must be notified to Zespri in writing). Please attach a bank deposit slip.

Account Name _____ Bank _____

Account No _____

GST Number of Grower _____

☐

↑
tick one
option

☐

Part C: Execution Section

Signature of
Authorised Signatory _____ Date _____

- I certify that I am authorised to sign on behalf of the legal entity named at the top of this form (only one signature is required).

Print Name _____

Postal Address _____

Zespri Authorised Signatory _____ Date _____

(Signed on behalf of Zespri Group Ltd)

A copy of the Three Year Rolling Grower Contract full terms and conditions is available from <http://canopy.zespri.com> or the Zespri Grower Support Services Ph 0800 155 355 or email contactcanopy@zespri.com. In the event of any inconsistency between the general descriptions contained within and the full terms and conditions, the full terms and conditions will prevail.

Please return to Zespri to ensure payment of the Loyalty Premium

Three Year Rolling Grower Contract: Summary of Key Features

Grower's commitment

1. You commit to:
 - supply Zespri with all Class 1 Kiwifruit from all properties you own or control; and
 - obtain post harvest services for such Class 1 Kiwifruit from the time it is packed only from post harvest operators and Registered Suppliers who, as Zespri Exclusive Suppliers, provide post harvest services for Class 1 Kiwifruit only if it is supplied to Zespri.
2. Class 1 kiwifruit is defined as all fruit that is or would be graded as Class 1 under the annual Supply Agreement including collaborative marketing kiwifruit but, excludes kiwifruit sold in New Zealand or exported for consumption in Australia.
3. The commitment is for three seasons, and at the end of each season will extend automatically for a further season beyond the remaining two seasons, unless you notify Zespri otherwise by 15 March in each year. In this case your commitment continues for the two remaining seasons, but Zespri is only required to pay the Loyalty Premium for the season in which notice was given. Zespri may withhold or recover that Loyalty Premium if you do not meet the commitment for the two remaining seasons.
4. However, your commitment will cease at the end of a season if Zespri notifies you accordingly by 15 March in that season. Zespri must pay the Loyalty Premium for the season in which notice is given, as long as you meet your commitment for that season.

Loyalty Premium

5. If you meet your commitments, Zespri will pay you the Loyalty Premium of 25 cents plus GST per Tray of Class 1 Kiwifruit supplied to Zespri at FOBS in the relevant season, and if after paying the Loyalty Premium, the NZ Supply EBIT (post-Loyalty) would be more than 1.00% of Net Sales (excess EBIT), an additional amount per Tray equal to half the excess EBIT, divided by Total Trays supplied to Zespri at FOBS by all Growers that have signed a Three Year Rolling Grower Contract with Zespri, plus GST.
6. Subject to clauses 7 and 8, Zespri will pay the Loyalty Premium in two installments - the first being \$0.10 per tray to be paid by the end of January of that season. Zespri will confirm the full and final Loyalty Premium payable for a season by 7 June in the following season and pay the second installment within 30 days of 7 June of the following season.
7. Without limiting Zespri's rights under clause 8, Zespri may postpone payment of the first instalment of the Loyalty Premium if the Zespri Board reasonably believes that it has (or will have) grounds to reduce the Loyalty Premium pursuant to clause 8. Zespri shall advise the IAC as soon as reasonably practicable if it intends to postpone the first instalment of the Loyalty Premium pursuant to this clause 7.
8. Zespri may reduce any part of the Loyalty Premium referred to in clause 5 not yet paid, if and to the extent the Zespri Board considers payment of such amount would result in the NZ Supply EBIT (post-Loyalty) being less than 0.0% of Net Sales. Zespri shall advise the IAC as soon as reasonably practicable if it intends to reduce the Loyalty Premium pursuant to this clause.
9. To avoid doubt, clauses 7 and 8 allow Zespri to reduce, cancel or delay the first instalment of the loyalty premium, reduce or cancel the second instalment of the loyalty premium, or elect to exercise any combination of those options whatsoever. (including, to avoid doubt, postponing the first instalment and then later reducing or cancelling it).

Withholding Loyalty Premium

10. Zespri may withhold or suspend any Loyalty Premium and/or recover the most recent Loyalty Premium paid for all of your properties, where:
 - you, or a related party (which has a wide meaning in the contract), supply Class 1 Kiwifruit to a person other than Zespri, or you otherwise breach your commitment summarised in paragraph 1 and 2 above;
 - you benefit from supply of Class 1 Kiwifruit by any other person to a person other than Zespri;
 - you have the power to direct or influence to whom another person may supply kiwifruit and that other person supplies Class 1 Kiwifruit to a person other than Zespri;
11. any of your post-harvest operators or Registered Suppliers provides post-harvest services for Class 1 Kiwifruit supplied to a person other than Zespri, unless you terminate your contract with that Registered Supplier or post-harvest operator as soon as possible. However, Zespri may exercise its

remedies if you are a related party of the Registered Supplier or post-harvest operator, or you were involved in or influenced the actions of the Registered Supplier or post-harvest operator.

12. If kiwifruit from your or a related party's property is found outside New Zealand or Australia and was not exported by Zespri or under a collaborative marketing arrangement, Zespri may exercise its remedies summarized under Clause 10, unless you prove that you took all reasonable steps to meet your obligations and were not involved in and did not influence the export or re-export of the fruit.
13. If you dispose of a property to a related party who does not sign a Three Year Rolling Grower Contract, or to another person and you receive benefit from, or can direct or influence, the supply of Kiwifruit from that property to a person other than Zespri, Zespri may withhold the Loyalty Premium and recover any Loyalty Premium already paid in respect of Kiwifruit from that property.
14. Without limiting any other provision in this Agreement, Zespri may withhold payment of some or all of the Loyalty Premium not yet paid to the Grower and other growers, and may terminate this and other like contracts with other growers, if not all Class 1 Kiwifruit is supplied to Zespri in a season.

Review Panel

15. You may apply to the review panel for reconsideration of any of the above decisions made by Zespri pursuant to clauses 10-14 above. The panel consists of the CEO of NZKGI, the Zespri General Counsel and an independent person appointed by the Industry Advisory Council (IAC). The panel must consider various factors, including the benefits all Growers receive from each Grower meeting their commitments, and fairness to you.

Termination

16. Zespri may withhold payment of the Loyalty Premium to all Growers and terminate all Three Year Rolling Grower Contracts if:
 - not all Class 1 Kiwifruit is supplied to Zespri in a season; or
 - in a future season the formula for calculating the Zespri margin is different from the 2018 formula and results in Zespri receiving a lower margin in that season.

Provision of Information by Zespri

17. Zespri must publish a range of information relating to the operation of the contract, and inform you of the specific details of the Loyalty Premium paid to you.
18. Zespri will provide information to you about the Kiwifruit supplied under this Agreement, including information on the Grower's Kiwifruit held in inventory by suppliers, the quality of the Grower's Kiwifruit against the requirements of the Quality Manual, and the payments to be made or that have been made in respect of the Grower's Kiwifruit. The information to be provided each year will be specified in the Supply Agreement.

Commitment by Zespri

19. Zespri commits to accept for supply at FOBS all Class 1 Kiwifruit from the Grower from all properties that the Grower owns or controls, in accordance with the Supply Agreement, provided:
 - (a) the Grower complies with this Agreement; and
 - (b) no other event occurs that would give Zespri the right to withhold or suspend payment of all or some of the Loyalty Premium under clauses 13 or 14 in the full terms and conditions

Amendment

The contract may be amended by Zespri provided the amendment is approved by an IAC resolution in writing. The parties agree to be bound by any such amendment.