



**CUSTOMER APPLICATION**

**Company Information**

Legal Name \_\_\_\_\_

Trade Name(s) \_\_\_\_\_

Bill To Address \_\_\_\_\_

Ship To Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_ Company Web-Site \_\_\_\_\_

Federal Tax ID# \_\_\_\_\_ PACA# \_\_\_\_\_ Expires \_\_\_\_\_ D&B# \_\_\_\_\_

Corporation  Proprietorship  Partnership  LLC  Other \_\_\_\_\_ Annual Sales (\$) \_\_\_\_\_

Year Established \_\_\_\_\_ Year Incorporated \_\_\_\_\_ State of Incorporation \_\_\_\_\_

Type of Organization  Wholesale  Distributor  Retailer  Processor  Other \_\_\_\_\_

Building/Facilities  Owned  Leased Name & Phone # of Mortgage Holder/Lessor \_\_\_\_\_

Equipment  Owned  Leased Name & Phone # of Lien Holder/Lessor \_\_\_\_\_

**Names of Principal Officers, Partners or Owners:**

Name \_\_\_\_\_ Social Security Number \_\_\_\_\_ Title \_\_\_\_\_

Name \_\_\_\_\_ Social Security Number \_\_\_\_\_ Title \_\_\_\_\_

Name \_\_\_\_\_ Social Security Number \_\_\_\_\_ Title \_\_\_\_\_

Within the last five (5) years has the applicant, or principal owners of the applicant, been sued by a trade creditor, been subject to a PACA Trust claim or filed a petition under any Chapter of the Bankruptcy Code?  Yes  No If Yes, Please explain Below:

\_\_\_\_\_

Are your receivables and/or inventory pledged to others?  Yes  No If yes, Please explain: \_\_\_\_\_

**Please list any companies in which any of the principals have a five percent (5%) or greater ownership interest:**

Company Name \_\_\_\_\_ Address \_\_\_\_\_

Company Name \_\_\_\_\_ Address \_\_\_\_\_

**Primary Contact Information:**

Finance Contact Name \_\_\_\_\_ Telephone \_\_\_\_\_ Email \_\_\_\_\_

Buyer Contact Name \_\_\_\_\_ Telephone \_\_\_\_\_ Email \_\_\_\_\_

Payables Contact Name \_\_\_\_\_ Telephone \_\_\_\_\_ Email \_\_\_\_\_



## CUSTOMER APPLICATION - TERMS AND CONDITIONS AGREEMENT

This Customer Application ("Application") is made to South Mill Mushroom Sales, LP and each of its respective operating subsidiaries and affiliates (referred to herein alternatively as "SOUTH MILL" or Operating Company") for the purpose of inducing SOUTH MILL to extend credit accommodations to the applicant hereto ("Purchaser") named below, who agrees to fully comply with all terms and conditions herein. Purchaser further agrees that all purchases from SOUTH MILL by Purchaser or its agent, employee or representative on an open account basis also are subject to the following terms and conditions:

**1. Extension of Credit.** Upon written approval of this Application by SOUTH MILL or any Operating Company, SOUTH MILL will extend reasonable credit as appropriate, in its sole discretion and, also at its sole discretion, shall have the right to terminate Purchaser's credit privileges at any time without prior notice, except as otherwise provided by law. Purchaser grants SOUTH MILL a purchase money security interest in all goods purchased from SOUTH MILL, and will cooperate in executing any UCC filings related thereto.

**2. Business Purposes.** Purchaser certifies that this request is for the extension of credit for business purposes only and is not intended for the extension of credit for personal, family or household purposes.

**3. Incorporation by Reference.** All purchases by Purchaser of goods and/or services from SOUTH MILL will be made in accordance with the terms and conditions of this Application and any applicable distribution agreement, invoice and/or other relevant documents evidencing Purchaser's obligations to SOUTH MILL, all of which are incorporated herein by this reference in the event of any conflict between the terms and conditions of this Application and any distribution agreement, the terms and conditions of this Application shall control. Except as to quantity of goods ordered no terms or conditions set forth in any purchase order or other form of Purchaser will apply to sales by SOUTH MILL to Purchaser.

**4. Failure to Pay; Late Charge.** The entire outstanding balance due to SOUTH MILL by Purchaser on all invoices shall become due in full immediately upon the failure by Purchaser to pay any invoice when due. SOUTH MILL may at any time deduct any Purchaser monetary obligations from any amounts owed to Purchaser by SOUTH MILL, and to pay only the net sum due, if any. Purchaser agrees to pay a late charge in the amount of 1.5% per month (18% per annum) or the highest rate permitted by law, whichever is less, on any past due amounts until collected, and Purchaser agrees to pay all costs of collection incurred by SOUTH MILL, including reasonable attorney's fees and expenses and any collection agency fees should a default in payment or any other obligation of Purchaser to SOUTH MILL occur.

**5. Dishonored Payments; Inactivity Fee.** Purchaser agrees to pay a fee of \$30.00 or the highest amount permitted by law per occurrence for any returned items (checks or ACH) that are dishonored for any reason.

**6. Choice of Law; Venue; Enforceability.** This Application and all transactions between Purchaser and SOUTH MILL shall be governed by and interpreted in accordance with the laws of the state in which the Operating Company which provided materials, supplies and or services resides, without regard to the conflicts of law provisions thereof, and all actions and proceedings arising from, relating to or in connection with this Application shall be subject to the exclusive jurisdiction of any federal or state court located in that state. All parties agree that proper venue for any action related to this Application or the parties' relationship shall be in any federal court or state court situated in the county in which the Operating Company's Principal place of business is located. The parties further agree that no *forum non convenes* defense shall apply to any such action. If any particular provision of these Terms and Conditions is determined to be unenforceable then the remaining provisions shall continue in full force and effect.

**7. Proprietary/Special Orders.** If Purchaser ceases doing business with SOUTH MILL for any reason, Purchaser shall be liable to SOUTH MILL for remaining proprietary/special order items purchased for Purchaser by SOUTH MILL.

**8. Assignment; Amendment.** Purchaser may not unilaterally assign this Application or any portion hereof without the prior written consent of SOUTH MILL, which consent may be withheld at SOUTH MILL's sole discretion. In the event of a change of control of Purchaser, Purchaser shall notify SOUTH MILL in writing by certified mail. In such event, SOUTH MILL may, in its sole discretion, immediately terminate this Agreement and declare all sums immediately due and payable, which sums may be provided from the proceeds of any such transaction; or allow the successor to assume all obligations hereunder in writing, subject to a determination of creditworthiness by SOUTH MILL, in SOUTH MILL's sole discretion. In any case, this Application shall be binding upon and inure to the benefit of the respective permitted successors and assigns of the parties hereto. No amendment to, or change, waiver or discharge of, any provision of these Terms and Conditions shall be valid unless in writing and signed by an authorized representative of SOUTH MILL.

**9. Perishable Agricultural Commodities Act.** Purchaser and SOUTH MILL agree that for the sale of all products subject to the provisions of 7 U.S.C Sections 499a through 499t and 7 C.F.R Section 46.2(u) ("PACA Products"), the terms for payment to SOUTH MILL for such PACA Products shall be ten (10) days from date of shipment ("PACA Prompt Payment Terms") unless SOUTH MILL and Purchaser agree to different payment terms by executing a

Payment Term Agreement; but in no instances shall the terms for payment exceed thirty (30) days. Any Payment Term Agreement may be revoked at any time by SOUTH MILL at its sole discretion. Both parties further agree to file and maintain a copy of this agreement in their respective records and that the terms of payment for all PACA Products as agreed in this paragraph will be disclosed on all documents relating to each PACA transaction between the parties in a manner consistent with the terms of this paragraph. For any transactions between the parties involving both PACA Products and non-PACA Products, the PACA Payment terms agreed to shall be used.

**10. Compliance with Federal Credit Laws.** If this Application is not fully approved or if any other adverse action is taken with respect to Purchaser's credit status with SOUTH MILL, Purchaser has the right to request within 60 days of SOUTH MILL's notification of such adverse action, a statement of specific reasons for such action, which statement will be provided within 30 days of said request. To obtain the statement of specific reasons, please contact the credit department of the Operating Company that provided this Application. THE FEDERAL EQUAL CREDIT OPPORTUNITY ACT PROHIBITS CREDITORS FROM DISCRIMINATING AGAINST CREDIT APPLICANTS ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, MARITAL STATUS, OR AGE (PROVIDED THAT THE PURCHASER HAS THE CAPACITY TO ENTER INTO A BINDING CONTRACT); BECAUSE ALL OR PART OF THE PURCHASER'S INCOME DERIVES FROM ANY PUBLIC ASSISTANCE PROGRAMS; OR BECAUSE THE PURCHASER HAS IN GOOD FAITH EXERCISED ANY RIGHT UNDER THE CONSUMER CREDIT PROTECTION ACT. THE FEDERAL AGENCY THAT ADMINISTERS COMPLIANCE WITH THIS LAW CONCERNING THE CREDITOR IS THE FEDERAL TRADE COMMISSION, EQUAL CREDIT OPPORTUNITY - WASHINGTON, D.C.

**11. Credit Level; Liability.** The approximate initial amount of credit that Purchaser requests shall not be binding upon SOUTH MILL, nor shall SOUTH MILL incur any liability by granting, reducing, increasing or refusing such amount. Purchaser recognizes that any credit requested or approved is not a limitation of liability, and Purchaser expressly agrees that it will be responsible for all goods and/or services purchased from SOUTH MILL.

**12. Certification; Authorization.** Purchaser hereby certifies that the information furnished under this Application and any other financial statements furnished in connection herewith, is true and correct and that this information is being provided to SOUTH MILL for the purpose of inducing SOUTH MILL to extend credit to Purchaser and understands and acknowledges that SOUTH MILL shall reasonably rely upon such information. Purchaser authorizes SOUTH MILL to investigate all trade and banking references furnished pertaining to the credit and financial responsibility of Purchaser, and to furnish Purchaser's credit status to credit reporting agencies. Purchaser understands and agrees to be bound by the above terms and all invoices and other documents furnished by SOUTH MILL from time to time, all of which are incorporated herein by reference, and agrees to advise SOUTH MILL of any material change in the information provided herein, including but not limited to, change of address or telephone number. Purchaser in all events shall notify SOUTH MILL in writing by certified mail of any changes of ownership of Purchaser. Purchaser understands that SOUTH MILL will retain this Application whether or not it is approved.

**13. Original Document.** Any reproduction of this Customer Credit Application by reliable means will be considered an original.

**14. Limitation of Liability.** SOUTH MILL and Purchaser agree that neither party shall in any event be liable to the other party or its respective subsidiaries, affiliates, franchisees or operators for any type of consequential or punitive damages (such as, but not limited to, loss of anticipated profits or business opportunity).

**15. Franchisor/Franchisee.** If Purchaser is a franchisee/licensee, Purchaser's franchisor/licensor may derive revenue or other material consideration as a result of Purchaser's purchases from SOUTH MILL. Therefore, the price for the products sold by SOUTH MILL to Purchaser may include rebates, allowances, mark-ups or credits that are paid by SOUTH MILL to Purchaser's franchisor/licensor in amounts determined by Purchaser's franchisor/licensor, which may not be shown on SOUTH MILL's invoice(s).

I agree to the terms and conditions contained herein and acknowledge that I have the authority to bind the applicant to the terms and conditions of sale. Under penalties of perjury, I swear or affirm that the information on this form is true and correct as to every material matter.

---

APPLICANT ("Purchaser") (Full Legal Name of Business)

---

SIGNATURE (MUST be signed by Officer, Senior Partner or Owner to be valid)

---

Date

---

Printed Name of Officer, Senior Partner or Owner

---

Title

