

PAOLA FARMS PTY LIMITED TRADING TERMS

These Agency Trading Terms are the terms of trade of Paola Farms Pty Limited when acting in the trade of horticulture produce.

These Agency Trading Terms constitute a horticulture produce agreement for the purposes of the Horticulture Code between Paola Farms Pty Limited (as set out in item 1 of the Schedule) and the Supplier/Grower (as set out in Item 2 of the Schedule), appointing that Paola Farms Pty Limited is to act as agent for the Grower in respect of the Produce in item 3 of the Schedule, with effect from the Commencement Date set out in item 4 of the Schedule.

1. In this document, "Terms" means these Agency Trading Terms, unless the Schedule has been signed in which case "Terms" will mean the Horticulture Produce Agreement that consists of these Agency Trading Terms and the Schedule.
2. Nothing in these Terms obliges Paola Farms Pty Limited to accept any Produce from the Grower pursuant to these Terms. Paola Farms retains an absolute discretion whether or not to accept Produce pursuant to these Terms.
3. The Grower warrants (by accepting the packing orders each time the Supplier/Grower provides Produce to Paola Farms Pty Limited) that it is the owner of the Produce, it has authority to appoint Paola Farms as agent pursuant to these terms and that the Produce is of merchantable quality, fit for its purpose and strictly meets the specifications for that Produce set out in item 5 of the Schedule ("Specifications").
4. Unless otherwise agreed between the parties, the Produce will be delivered to Paola Farms (at the address specified by Paola Farms) at the Grower's risk, cost, and expense.
5. The Grower will pay Paola Farms a commission for all Produce sold by Paola Farms pursuant to these Terms, as set out in item 6 of the Schedule ("Commission"), or as otherwise varied by agreement in writing by the parties from time to time.

6. Paola Farms has the right to charge, and the Grower will pay, for any additional expenses arising from the sale of the Produce pursuant to these Terms, including without limitation freight, packing, packaging, storage or as permitted under any other agreement between the parties.
7. Subject to clause 9, Paola Farms will pay the Grower any proceeds that Paola Farms receives for the sale of the Produce, after deducting the Commission and Expenses applicable to the Produce sold (and, if elected by Paola Farms, after deducting any amounts owing to Paola Farms by the Grower under any other agreement) ("Proceeds"). Paola Farms acknowledges that the deduction of Commission or Expenses under this clause constitutes payment of those amounts by the Grower.
8. Paola Farms may pool the Produce it receives from the Grower with produce of the same variety and quality which is received from other growers.
9. If Paola Farms pools the Produce, the Proceeds will be calculated based on the average price Paola Farms receives for the sale of pooled Produce (per count, grade and variety) packed during for the relevant container (Pooled Produce), after then deducting (a) Commission, based on that average price and (b) Expenses, which for each Expense can be the actual Expense for that Grower's produce in that container or the average Expense incurred by Paola Farms for the sale of Pooled Produce. Paola Farms acknowledges that the deduction of Commission and/or Expenses under this clause constitutes payment of those amounts by the Grower.
10. Unless otherwise agreed, payment of the Proceeds will be made to the Grower in accordance with the payment terms set out in item 7 of the Schedule. If any Proceeds that are paid to the Grower are subsequently discovered to relate to a bad debt, Paola Farms may elect to deduct the amount of such Proceeds from any future amounts payable to the Grower, provided that Paola Farms repays any Commission charged for the sale that relates to the bad debt.
11. The Grower consents to Paola Farms selling the Produce to any third party that Paola Farms thinks fit, including any related body corporate of Paola Farms. The Grower also consents to Paola Farms selling the Produce in any

location that Paola Farms thinks fit, including a state or territory other than that in which the Produce was originally delivered to Paola Farms.

12. Paola Farms will pursue customers for payment of bad debts but is not required to take legal action against customers in respect of bad debts. Paola Farms will give details of bad debts, including the relevant buyer's name and contact details, to the Grower on request.
13. The Grower will indemnify Paola Farms for any amounts that Paola Farms pays to a liquidator, receiver, trustee in bankruptcy or any other insolvency practitioner in respect of any monies previously received by Paola Farms on account of the Proceeds.
14. Paola Farms will provide a statement ("Statement") to the Grower which, in respect of each successive month, will detail the following:
 - a. the date or dates of the sale of the Produce during the period;
 - b. the type and quantity of the Produce sold during the period;
 - c. the price received for the Produce sold during the period;
 - d. details of the Commission and any Expenses deducted from the Proceeds during the period;
 - e. the dates at which Produce was delivered to Paola Farms during the period;
 - f. details of any Produce delivered to Paola Farms during the period that remains unsold at the end of the period, and the reasons why the Produce was not sold;
 - g. details of any unsold Produce that was destroyed during the period (and the costs of destruction);
 - h. details of any unsold Produce that is held by Paola Farms at the end of the period. The Statement will be delivered by the end of the following month after the reporting period and is prima facie evidence of the accuracy of the

matters set out in (a) to (h) above, in the absence of manifest error. Unless otherwise requested by the Grower, the Statement will be taken to have been delivered to the Grower if it is made available for collection at Paola Farms premises.

15. The Grower, at their own expense, will punctually make the Produce available for inspection by Paola Farms at the time and location as instructed by Paola Farms from time to time. The Produce must be made available by the Grower to Paola Farms strictly in accordance with Paola Farms instructions, which may be varied from time to time at the absolute discretion of Paola Farms. The Produce is made available at the sole cost of and risk of the Grower.
16. In addition to Paola Farms rights under clause 2, Paola Farms or its nominated representative will inspect the Produce and may reject all or some of the Produce for the following reasons:
 - a. where all or some of the Produce does not meet the Specifications;
 - b. where Paola Farms determines that all or some of the Produce is unfit for sale by Paola Farms; or
 - c. where all or some of the Produce is not made available for inspection strictly as directed by Paola Farms.
17. If Paola Farms rejects all or some of the Produce it will:
 - a. immediately contact the Grower to advise what amount of the Produce is rejected;
 - b. confirm that rejection, and the reasons for rejection, in writing within 5 business days; and
 - c. at the risk and cost of the Grower, return the rejected Produce to the Grower (or make it available for collection by the Grower's nominated representative), or destroy the Produce if requested by the Grower.

18. The Grower acknowledges and agrees that the Produce may contain latent quality defects which do not manifest until after the Produce has been made available to Paola Farms. Paola Farms reserves its right to exercise its rights and remedies under this clause with respect to Produce that manifests such latent quality defects after the Produce has been inspected and accepted by Paola Farms in accordance with clause 17. A written statement by Paola Farms asserting a latent quality defect in Produce, together with reasonable evidence of the defect, the cost and damages to Paola Farms of the defect and when the defect became apparent to Paola Farms will be prima facie evidence of such matters. The cost and damages suffered by Paola Farms as a result of a latent quality defect will be payable by the Grower, or (in Paola Farms sole discretion) may be set off and deducted from any monies payable by Paola Farms to the Grower.
19. The Grower indemnifies Paola Farms for all loss, damage, costs, or expenses arising from any breach by the Grower of these Terms including without limitation the warranties in clause 3.
20. Where these Terms constitute a Horticulture Produce Agreement, then the Terms may:
 - a. be terminated by either party on no less than 90 days' notice, subject to the Grower's cooling-off rights in the Horticulture Code; and
 - b. only be varied as agreed in writing between the parties.
21. If a dispute arises between the parties, a party may deliver a notice to the contact person specified in items 1 or 2 of the Schedule (as appropriate) setting out the terms of the dispute. Each party must use its reasonable endeavours to resolve the dispute by negotiations with the other. If either party gives notice that it wishes the dispute to be determined in accordance with the procedure in Division 5.2 of the Horticulture Code, the other party must participate in that procedure.
22. All dollar amounts expressed in or pursuant to these Terms are exclusive of GST. The Grower is responsible for payment of all GST arising from any supply made by Paola Farms under this agreement.
23. All rights subsisting to the parties at termination shall survive termination.

24. Paola Farms liability for any loss arising pursuant to these Terms is limited to the amount recovered by Paola Farms from its insurers for such loss.
25. These Terms are governed by the law of the State of New South Wales and the parties submit to the non-exclusive jurisdiction of the state of New South Wales.
26. These Terms may be executed in counterparts. All counterparts when taken together are taken to constitute the one agreement.
27. By accepting the Packing Order, the Grower agrees to the Agency Trading Terms outlined.

SCHEDULE – HORTICULTURE PRODUCE AGREEMENT DETAILS

1. PAOLA FARMS PTY LIMITED:

Company name: Paola Farms Pty Limited

ABN: 44 602 324 489

Postal Address: 777 Lismore Rd, Nashua, NSW 2479

Contact person: Trent Paola

Telephone: 0414 182 125

Email: trent@paolafarms.com.au

2. GROWER: Grower listed on packing order

3. PRODUCE: All Horticulture Produce

4. COMMENCEMENT DATE: The date on which the packing order is received by the Grower.

5. PRODUCE QUALITY SPECIFICATIONS: The specifications provided by Paola Farms to the Grower from time to time.

- 6. COMMISSION:** Agreed commission multiplied by the price at which Produce is sold by Paola Farms, excluding GST but before deducting rebates or any other amounts.

- 7. PAYMENT TERMS:** Proceeds will be paid to the Grower within 30 days after Paola Farms has received payment in cleared funds for the whole consignment.