

COL JOHNSON & CO PTY LTD (ABN 96 097 104 606)
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HORTICULTURE PRODUCE AGREEMENT (AGENT)

In accordance with the Trade Practices (Horticulture Code of Conduct) Regulations 2006,

This is an agreement entered into

Between COL JOHNSON & CO PTY LTD ("the Trader")

And _____ ("the Supplier")

TERMS OF AGREEMENT

- 1.1 **Trading Status.** The Trader agrees to sell the horticulture produce ("produce") consigned to it by the Supplier as an **Agent** as prescribed by the Trade Practices (Horticulture Code of Conduct) Regulations 2006 ("H.C.C."). This agreement replaces all existing agreements between the Trader and the Supplier.
- 1.2 **Terms of Trade.** All terms included in the Traders Terms of Trade dated 14 May 2007 form part of this Horticulture Produce Agreement ("HPA") and are attached.
- 1.3 **Term of Agreement:** This HPA Agreement will commence on the date set out below, and will continue until terminated by either party by giving the other party seven (7) days written notice.
- 1.4 **Variation to Agreement.** This HPA agreement may only be varied by further written agreement signed by both parties.
- 1.5 **Commission.** Upon delivery of the produce The Trader shall use reasonable endeavours to procure a sale of the produce. Contingent upon the sale of the produce by the Trader, the Trader is entitled to a commission of **15%** of the Sale Price agreed to by the purchaser, inclusive of all costs incurred by the Trader except for those detailed below at "1.8 Additional Costs and Deductions" in selling that Produce, plus GST.
- 1.6 **Statement Reporting.** The Trader will provide a Produce Statement - Recipient Created Tax Invoice when all produce in the consignment received has been sold. This Produce Statement - Recipient Created Tax Invoice will be generated on a weekly basis and will report all details as required by regulation 20 of the H.C.C.
- 1.7 **Price Deductions.** The Supplier agrees to the Trader making deductions in relation to all State, Federal and voluntary charges relating to the produce concerned and in special circumstances to reimburse the Trader for any non standard transportation costs incurred with inbound produce shipments which fall outside of the Traders Terms of Trade.
- 1.8 **Additional Costs and Deductions.** Where sales of the Supplier's Produce is made to Supermarket Chains the following will be deducted from the sale proceeds payable to the Supplier:
 - (a) A deduction of 2.5% plus GST will be made to cover the cost of the rebate charged by these Supermarket Chains.
 - (b) A deduction of 1.0% plus GST will be made to cover other costs associated with the sale of this produce to the Supermarket Chains such as cartage, plastic crate hire and issue costs and labelling and packaging requirements.
- 1.9 **Dispute Resolution.** In the case of a dispute that may arise under these Terms, the dispute resolution procedures of the H.C.C will be followed. In the event of a dispute, the person the Trader should contact is the person signing this agreement, or if not this person, the Supplier's contact will be

_____ (The Supplier to please print name)

In the event of a dispute the person the Supplier should contact is **John Horan, Chief Financial Officer** on (03) 9687 7725.

1.10 **Legal Advice.** For the purposes of complying with Clause 8 of the H.C.C the Supplier is to please CROSS OUT the statement which is not applicable:

(a) **The Supplier obtained legal advice.** The Supplier states that it retained :

_____ (“Advisor”) to act for the Supplier in relation to the HPA to be entered into between the Trader and The Supplier and have received independent legal advice from the Advisor in relation to the H.P.A before entering into the H.P.A.

(b) **The Supplier did not obtain legal advice.** The Supplier acknowledges the Trader has encouraged and afforded the Supplier the opportunity to obtain independent legal advice in relation to this HPA Agreement. The Supplier warrants to the Trader that it has read the HPA Agreement and understands its meaning and effect and, has elected not to obtain legal advice. In doing so it waives any right of recourse the Supplier may have otherwise had against the Trader for not having obtained such advice.

1.11 **Acceptance of this HPA Agreement.** The Trader reserves the right not to accept the delivery of any horticulture produce from a Supplier who has not executed a HPA Agreement.

If the Supplier continues to deliver horticulture produce to the Trader without having first signed a copy of this HPA Agreement and provided it to the Trader, the Supplier is taken to have agreed to the terms of this HPA Agreement and Terms of Trade. By implication this HPA is deemed to be executed upon the date on which the Supplier first continued to deliver horticulture produce to the Trader.

EXECUTED AS AN AGREEMENT on this _____ day of _____ 200_

SIGNED for and on behalf of COL JOHNSON & CO PTY LTD (“THE TRADER”) by:

(Signature)

John Horan
Name (please print)

CHIEF FINANCIAL OFFICER
Signatory’s Title

SIGNED for and on behalf of THE SUPPLIER by:

(Signature)

Name (please print)

Signatory’s Title