

CANARY ISLAND PALM SALES

TRADING TERMS & WARRANTY

1. Who these terms apply to

These terms apply when you purchase palms or related services from Hewittville Pty Ltd trading as Canary Island Palm Sales (we, us or our). They should be read with your quote or invoice and our current Palm Installation & Care Manual.

By accepting our quote, paying a deposit or invoice, or accepting delivery, you agree to these terms, subject always to rights that cannot be excluded by law.

2. Orders, selection and payment

- Unless your quote or invoice states otherwise, palms and applicable delivery charges must be paid in full before dispatch or collection. Cleared funds are required before the palm leaves our nursery.
- Where a deposit is stated on the quote or invoice, that deposit secures the selected palm and/or booking. The balance is payable by the due date stated on the invoice.
- Canary Island date palms are living, natural products. Reasonable variation in trunk shape, canopy, foliage, dimensions and appearance is expected. Any stated measurements are approximate unless expressly stated otherwise in writing.
- For telephone, email or sight-unseen purchases, we will select stock that reasonably corresponds with the agreed type and description. We can provide photographs and approximate measurements on request before purchase.

3. Change of mind and cancellation

Please choose carefully. We do not have to provide a refund for a simple change of mind. However, this does not affect any right you may have under the ACL or another applicable law.

If you cancel after we have reserved a specific palm, arranged transport, sourced third-party stock or incurred other costs for your order, we may retain or charge only amounts that we are legally entitled to retain or recover, including reasonable costs actually incurred. Any cancellation fee will not apply where you are entitled to cancel or obtain a remedy under the ACL.

For a scheduled installation or other service, please give at least 72 hours notice if you need to reschedule. Where less than 72 hours notice is given, we may charge reasonable costs actually incurred because of the late cancellation, subject to applicable law.

4. Holding purchased palms

If we agree to hold a purchased palm for you, the holding period, deposit/payment requirements and any holding charges will be stated on your quote or invoice. You must arrange delivery or collection by the agreed date. If you need us to hold the palm longer, contact us before that date so we can agree any extension and associated costs in writing.

5. Delivery, collection and transport

Collection or customer-arranged transport. Once a palm is collected by you or your carrier, you are responsible for its safe handling and transport. We will provide reasonable handling guidance on request. This does not exclude liability that cannot lawfully be excluded.

Delivery arranged by us. Please inspect the palm and quantity on delivery where practicable and tell our driver about any visible concern. If you are not present, we may use photographs or other reasonable records as evidence of delivery. Please notify us promptly in writing of any delivery damage or discrepancy. A seven-day notification period helps us investigate but does not limit any rights you may have under the ACL.

Third-party carriers. If, at your request, we arrange an independent carrier as your agent, the carrier may have its own terms. Nothing in this clause removes any responsibility we have to you that cannot lawfully be excluded.

6. Installation service and site responsibilities

- You must give us accurate information about known underground and overhead services and site hazards before work starts, and provide safe and reasonable access for our equipment and contractors.
- We may pause or decline installation where we reasonably consider the site unsafe or unsuitable, including waterlogged ground, inadequate access or proximity to services. We will discuss reasonable alternatives with you.
- If unforeseen site conditions require extra labour, equipment, drainage, materials or other work outside the agreed scope, we will seek your approval before carrying out material additional work where reasonably practicable. Approved additional work will be charged as agreed.
- Our installation services will be provided with the consumer guarantees required by the ACL, including due care and skill where applicable.

7. Our 12-month voluntary establishment warranty

In addition to your rights under the ACL, we offer the following voluntary warranty for Canary Island Date Palms that we both deliver and install.

- **Warranty period:** 12 months from the date we install the palm.
- **What we provide:** if, during the warranty period, we determine that the palm has failed to establish or thrive for a reason covered by this voluntary warranty, we will provide a replacement palm of the same or a reasonably comparable type, subject to availability.
- **Your responsibilities:** follow the written installation and after-care instructions we provide, including watering, drainage, staking/support, pest management and other reasonable care requirements, and contact us promptly if the palm shows signs of decline so we have a reasonable opportunity to inspect and advise.
- Ex-farm / customer-installed palms are **not** covered by this voluntary 12-month establishment warranty because we do not control their transport, handling, site preparation or installation.

8. What the voluntary warranty does not cover

The voluntary warranty does not cover failure or damage caused by circumstances outside the condition of the palm as supplied or the quality of our installation, including:

- transport or handling not performed by us;
- the root ball drying out before or after planting;
- insufficient watering, overwatering, poor drainage or waterlogging;
- root damage, movement after planting, inadequate support or mechanical damage;
- incorrect planting depth, covering the root ball, soil compaction or unsuitable site preparation;
- fire, flood, lightning, storm, extreme weather, natural disaster or vandalism;
- animals, pests or disease arising after installation, except to the extent a problem was present at supply or is otherwise our responsibility under law;
- soil contamination, salinity, buried toxins or unsuitable soil conditions not caused by us;
- herbicide use or chemical drift;
- incorrect pruning, unauthorised relocation or other work carried out by others;
- a site or climate that is unsuitable where the relevant risk was not caused by, or reasonably within the control of, us.

These exclusions apply to the voluntary warranty only and do not exclude any right or remedy available under the ACL.

9. Making a warranty claim

Contact us as soon as you notice a problem and within the 12-month voluntary warranty period. Please provide your name, invoice number, installation address, a description of the issue and clear current photographs. We may ask to inspect the palm and review its care history before deciding the voluntary warranty claim.

If we approve a replacement under the voluntary warranty, the replacement palm itself will be supplied without charge. Any transport, removal, disposal or re-installation costs will be dealt with as stated in your warranty documentation and subject to your rights under the ACL.

10. Palms not installed by us – purchaser responsibility

Where a palm is transported, handled, planted or installed by the purchaser or by any third party not engaged by us, the palm is not covered by our voluntary replacement warranty. We have a blanket policy that we do not replace palms under our voluntary warranty where we have not carried out the installation, as we cannot control or verify the handling, transport, site preparation, planting method, soil conditions, drainage, irrigation or after-care once the palm leaves our control.

Canary Island Date Palms are large, mature living plants and must be handled, transported, planted and maintained with appropriate care. The purchaser must follow all written transport, installation and after-care instructions supplied by us and must provide those instructions to every contractor, landscaper, crane operator, installer, property manager or other person involved in transporting, handling, installing or caring for the palm.

The purchaser accepts responsibility for the risks associated with third-party transport, handling, installation and ongoing care, including damage, decline or death arising from incorrect planting depth, inadequate or excessive watering, irrigation failure, poor drainage, unsuitable soil or backfill, root-ball damage, incorrect handling or lifting, inadequate support, inappropriate site selection, subsequent landscaping or construction works, neglect, chemical damage, pests or disease introduced after delivery,

or any other circumstance outside our reasonable control. We are also not responsible under our voluntary warranty for damage or loss caused by weather or environmental events outside our reasonable control, including storms, flooding, waterlogging, drought, excessive heat, frost, high winds, lightning or other extreme conditions.

Because the establishment and survival of a transplanted mature palm can be significantly affected by matters occurring after it leaves our control, no replacement or other remedy is provided under our voluntary warranty for a palm that we have not installed.

11. Australian Consumer Law

Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- to cancel your service contract with us; and
- to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

The benefits provided by our voluntary warranty are in addition to other rights and remedies available to you under law.

12. Liability

To the maximum extent permitted by law, we are not responsible for loss or damage caused by matters outside our reasonable control or by your failure to comply with your responsibilities under these terms. Nothing in these terms excludes, restricts or modifies liability, consumer guarantees or remedies that cannot lawfully be excluded, restricted or modified.

13. Contact details and warranty provider

Warranty provider: Hewittville Pty Ltd trading as Canary Island Palm Sales

Business address: 50 Palmers Road, Terragon NSW 2484

Phone: 0480 002 702

Email: sales@canaryislandpalmsales.com.au

www.canaryislandpalmsales.com.au

Warranty claims may be sent to the email or business address above. Please keep your invoice as proof of purchase.

14. General

If any provision of these terms is unlawful or unenforceable, it is to be read down to the extent necessary or, if that is not possible, severed without affecting the remaining provisions. These terms are governed by the laws applying in the Australian State or Territory connected with the transaction, subject to any mandatory consumer protection law.