

## TERMS AND CONDITIONS OF NUT IN SHELL PURCHASE FOR THE 2023 SEASON

Marquis Macadamias (MM) will purchase Nut in Shell (NIS) from suppliers during the 2023 season under the following terms and conditions (the 'Terms and Conditions'). MM reserves the right to reject any NIS which is not supplied in accordance with the Terms and Conditions.

If you are Shareholder in MM these Terms and Conditions are subject to and should be read in conjunction with the Shareholder Supply Agreement in force for the relevant season in which you are supplying NIS under these Terms and Conditions. A copy of the Shareholder Supply Agreement is available on request from MM.

By supplying NIS to MM you agree that you are doing so on the basis of these Terms and Conditions and, where applicable, these Terms and Conditions read in conjunction with the Shareholder Supply Agreement.

### 1. NIS specifications

Subject to these terms and conditions, MM will only purchase NIS delivered to its Lismore or Bundaberg factories, or its nominated depots, that meet the following specifications. MM retains the right to determine, at its sole discretion, whether any NIS has met the specifications.

#### 1.1. Acceptable varieties

Both grafted and *integrifolia* and *tetraphylla* varieties will be accepted provided they are kept separate and clearly labelled.

#### 1.2. Moisture content

Macadamia NIS will be accepted at varying moisture levels. However, suppliers are advised that correct farm storage is essential, and the removal of moisture should begin immediately after harvest.

#### 1.3. Quality requirements

- Consignments must not be contaminated with excessive dirt, animal waste and/or foreign compounds not naturally associated with macadamia products (examples of contamination are oils, fuels, and fertilisers).
- All NIS must conform to the relevant State and Federal regulatory requirements governing agricultural production and food products.

#### 1.4. Nut size

NIS must have a minimum diameter of 17mm. NIS that passes through a 17 mm bar screen will be removed and the weight deducted from the delivered weight. See **Section 6** for further explanations.

#### 1.5. Kernel recovery requirements

Consignments of NIS must have a combined Premium Kernel Recovery (PKR) and Commercial Kernel Recovery (CKR) of not less than 18.0%. See **Sections 4 and 5** for an explanation of these terms.

Consignments of NIS must have a Reject Kernel Recovery (RKR) of less than 7%. See **Sections 4 and 5** for an explanation of these terms.

## 2. Delivery specifications

Both the Lismore and Bundaberg factories will accept deliveries of standard NIS, which is defined as nut in shell that is free from foreign materials that pose a significant food safety risk and contains negligible trash, gross rejects, and husk. MM retains the right to determine, at its sole discretion, whether any delivery has met the delivery specifications, and if not whether the delivery is rejected.

#### 2.1. MM Lismore Factory excluding approved dehusking facilities.

In addition to points 1.1 to 1.5, deliveries to MM Lismore, (excluding deliveries to the approved dehusking facilities), must meet the limits specified in Table 1 below. Deliveries that do not meet the specifications may be rejected.

**Table 1.** Delivery requirements for MM Lismore, (excluding deliveries to approved dehusking facilities):

Category	Definition	Cut-off
<b>Foreign Materials</b>	Materials that do not grow on the macadamia tree or are not naturally found on the orchard floor – 2 categories  1. Significant food safety hazards e.g. rat baits	Significant food safety hazards – nil allowed
	2. Other Foreign Materials e.g. irrigation fittings, harvester wheel fingers	Other Foreign Materials - 1 piece/tonne
<b>Trash</b>	Leaf	10% by area
	Stick	20 pieces/tonne
	Rock	10 pieces/tonne
<b>Gross Rejects</b>	This includes black nuts, loose shell, loose kernel, rodent damaged nuts, rancid nuts, nuts exhibiting mould on shell and seedling nuts.	5% by weight
<b>Nut in Husk</b>	Nut in shell that is encased in husk	10% by count

## 2.2. Approved dehusking facilities delivery specifications

In addition to points 1.1-1.5, deliveries to approved dehusking facilities must comply with the following specifications:

- Deliveries made to MM's depot at the approved dehusking facilities may contain up to 100% Nut in Husk (NIH).
- MM and the approved dehusking facility reserve the right to reject consignments due to excessive leaf, rock, detection of animal manure and/or the detection of any significant food safety hazards, such as rat baits.
- Deliveries made to Macadamia Enterprises must be a minimum of 1 tonne Delivered Weight.
- If a delivery to Macadamia Enterprises is deemed by a representative of MM to be unsuitable due to excessive foreign material, it will be returned to the grower unsorted, unless the grower agrees to pay an extra \$0.60/kg to Macadamia Enterprises on the Delivered Weight. If the grower agrees to bear the additional dehusking cost of \$0.60/kg the amount will be deducted from payments otherwise due to the grower from MM in accordance with these Terms and Conditions and will be remitted by MM to Macadamia Enterprises.

## 3. Charges

- Deliveries to MM Lismore, (excluding deliveries to the approved dehusking facility) that meet the limits specified in Table 1 will not incur a charge for cleaning, dehusking or sorting.
- For Northern NSW growers, deliveries to the approved dehusking facilities at Summerland Farm and P & L Dehusking, that contain less than 5% Gross Rejects will incur a dehusking charge based on the Delivered Weight, as defined in **Section 6**. The rate will be \$0.13/kg of Delivered Weight, with a minimum charge of \$110.00 applied to any delivery. Deliveries to these approved dehusking facilities, that contain greater than 5% Gross Rejects, will incur a dehusking and sorting charge based on the Delivered Weight. The rate will be \$0.19/kg of Delivered Weight for the dehusking and sorting, with a minimum charge of \$110.00 applied to any delivery.
- For Bundaberg based growers utilising the Marquis Macadamias dehusking service provided by Macadamia Enterprises, the rate will be \$0.35/kg of Delivered Weight, as defined in **Section 6**, for services organised by Marquis Macadamias.
- The dehusking and/or sorting charges will be deducted from the consignment value.

#### 4. Recovery and adjustment definitions

In the following definitions, the weight of the kernel and NIS are taken at the moisture content reached after drying for lab testing which is approximately 3.5% NIS moisture content.

- **Premium Kernel Recovery (PKR)** The percentage of Premium kernel to the total NIS by weight.
- **Commercial Kernel Recovery (CKR)** The percentage of Commercial kernel to total NIS by weight
- **Reject Kernel Recovery (RKR)** The percentage of Reject kernel to total NIS by weight.
- **Whole Kernel Percentage** The percentage of whole kernel in the premium and commercial categories to the total premium and commercial kernel by weight.
  - **Whole Kernel Adjustment** An adjustment factor that is applied to the value of the premium and commercial kernel in a consignment based on the whole kernel percentage.

#### 5. Kernel definitions

The following quality definitions will be applied when testing NIS consignments.

- Premium kernel - Fully mature kernel that is plump (not shrivelled), round and firm with an even white or cream colouring and free of any off odours or flavours or rancidity will be regarded as Premium kernel.
- Commercial kernel – Kernel affected by the following defects will be regarded as Commercial kernel:
  - Light discolouration
  - Light shrivelled (immaturity)
  - Light discoloured crest (germination)
- Reject kernel means Kernel affected by the following defects will be regarded as Reject kernel:
  - Insect damage
  - Mould
  - Heavy discolouration
  - Internal discolouration
  - Heavy shrivelled (immaturity)
  - Heavy discoloured crest (germination)
  - Rancidity
  - Off odours or flavours
- Whole Kernel – A Premium or Commercial grade kernel that is greater than 75% intact.

## 6. Sampling and testing definitions

### 6.1. Delivered Weight adjustments and terms

- To determine the Consignment NIS Weight, the Delivered Weight will be adjusted by deducting:
  - The weight of foreign materials, trash, husk, less than 17mm NIS and gross rejects removed during processing; and
  - The weight of the foreign materials, trash, husk, less than 17mm NIS and gross rejects remaining in the consignment after processing as calculated using sample analysis.
- For deliveries that are sampled prior to processing, the weight of foreign materials, trash, husk, less than 17mm NIS and gross rejects will be calculated using sample analysis only. This weight will then be deducted from the Delivered Weight to determine the Consignment NIS Weight.
- The following definitions apply to the weight adjustment calculations:

**Delivered Weight** – The total weight of NIS, husk, foreign materials, trash and gross rejects delivered to MM or its nominated depot.

**Removed Weight** – The weight of husk, foreign materials, trash, gross rejects and less than 17mm NIS that is removed from a consignment during processing plus the calculated weight of these materials remaining and still to be removed after processing, as determined using sample analysis.

**Consignment NIS Weight** – Delivered Weight minus the Removed Weight (at delivered moisture content).

**Processing** – passing the whole consignment through machinery to remove some or all of the husk, foreign materials, trash, gross rejects and less than 17mm NIS.

### 6.2. NIS

- For the purpose of payment, NIS that is within the specifications at **Sections 1 and 0** either at delivery or after MM cleans and dehusks it, will be sampled at the rate of one sample per two tonnes, or part thereof, for consignments of up to ten tonnes. The lowest sampling rate for consignments greater than ten tonnes will be one sample per two tonnes for the first ten tonnes and then one sample per four tonnes, or part thereof, for the remainder of the consignment.
- All samples will be assessed in accordance with Industry Standards in our AMS accredited laboratory. The consignment value is based solely on the results of the assessment of these samples.
- Suppliers are welcome to view their product being tested.

## 7. Re-tests

- Should a supplier wish to query a test result, duplicate NIS samples will be retained for a period of two months only, during which time a re-test can be conducted at their request.
- Results from re-tests will be averaged with the original test result and payment for the associated consignment will be based on the averaged result.

## 8. Basis of Payment

- MM will analyse each consignment for the Premium Kernel Recovery, Commercial Kernel Recovery, Reject Kernel Recovery, Whole Kernel Percentage for Premium and Commercial Kernel, moisture content % and the Consignment NIS Weight according to these Terms and Conditions. This will be used for calculating the Notional price for a consignment according to the Notional Price Table.
- The Notional Prices in the Notional Price Table (which is attached to the Terms and Conditions as Annexure 1) have been determined prior to the start of the season by the Board of MM having regard to forecast sale prices for macadamia products made from NIS anticipated to be supplied by growers to MM during the relevant season
- Subject to the following paragraph, payments to growers during the season will be the calculation of the Notional price based on the combined total value of Premium Kernel recovery and Commercial Kernel recovery in the consignment as determined from the notional price table.
- The amount determined in the paragraph immediately above will then be multiplied by the Whole Kernel adjustment as determined from the notional price table. There will then be an adjustment to this amount based on the Reject Kernel with a bonus or deduction applying depending on the level of Reject Kernel in a Consignment as per the Notional Price Table. The prices in the Notional Price Table are expressed in dollars per kg of NIS at 10% moisture content.
- MM may, from time to time during a season, adjust the Notional Prices in the Notional Price Table having regard to the prices being achieved and forecast to be achieved from sales of macadamia products in the domestic and export markets. Growers will be notified of any such changes by written notification.
- MM will pay the grower the applicable Notional Price for each consignment of supplied NIS according to the payment schedule notified to growers from time to time in writing, subject to the deduction for expenses and provisions described below.
- This payment schedule is subject to change which includes accelerating, delaying or ceasing progress payments at the discretion of the Board of Directors. **These decisions will be made by the Board exercising reasonable judgement having regard to:**



(a) **whether the** actual selling prices being achieved in the market require an adjustment to the payment schedule as a matter of prudence based on the aggregate value of payments that have already been made to all growers season-to-date based on the prevailing Notional Price, and which are forecast by MM to be made to growers based on the Notional Price Table for the balance of the season, as compared to the anticipated sales revenue; and

(b) The need for MM to comply with banking covenants its obligations to meet operating expenses of the company. .

Any decision to accelerate, delay or cease progress payments that would otherwise be paid in accordance with the payment schedule will be communicated to growers in writing as soon as practicable, with reasons.

- Marquis will pay the Grower the “Final Notional Price” for its NIS supply which is based on the average selling price per kilogram obtained by Marquis for the finished product after deducting all reasonable expenses and provisions for the financial year. Reasonable expenses includes but are not limited to Raw materials (includes Nut In Shell) and consumables used in the operation of factories, Employee benefits, Storage and Transport, Depreciation, Finance costs, Foreign exchange gains or losses and a share of profit or loss of MM’s associated entities (including Marquis Marketing). Details of these expenses and other deductions are included in MM’s Annual Report.
- A Freshcare bonus of \$0.03/kg NIS at 10% MC will be added to the Consignment Value if all the nuts in a consignment have been grown on a farm with current and valid Freshcare certification.
- MM offers to pay only for NIS that meets these Terms and Conditions.



### Freight Subsidy

- In addition, a freight subsidy will be added to the Consignment Value. This subsidy will be paid to all growers, regardless of whether you use a contract carrier or cart NIS yourself. The amount to be paid will be radius based, determined by the distance of your farm from MM Lismore or Bundaberg factories or an alternate approved MM depot. The amount of freight subsidy to be paid is outlined in the table below and is based on the weight of NIS delivered at 10% MC.

Radius from Depot:	Subsidy per kg NIS @ 10% MC
0-50km	3.0c
50-100km	3.7c
100km +	6.0c

## 9. Australian Macadamia Industry Compulsory Levy

The Macadamia Industry Levy will be deducted from the payment for a consignment. The levy is calculated at 25.21 cents/kg of premium and commercial kernel weight calculated at 3.5% NIS moisture. Following is an example of the levy calculation for a consignment of NIS of 1000kg with 2% Reject kernel, 2% Commercial Kernel and 34% Premium Kernel:

NIS at 10% moisture	1000kg
Convert NIS to 3.5%	$1000 \times 0.90/0.965 = 932.64\text{kg}$
Total saleable kernel = 36% x 932.64	335.75kg of kernel
Levy = \$0.2521 x 335.75	\$84.64

## 10. Deliveries

### 10.1. Delivery hours, contact numbers and bookings

- Our **Lismore** premises will be open for NIS deliveries from 7.30am – 4.00pm Monday – Friday during the season. Operating hours may be extended during the season to accommodate deliveries. To assist in the management of the delivery schedule at Lismore, bookings are required.

Phone Michael Pirlo on (02) 6625 6312 (7.00am – 4.00pm) to make a booking.

If busy, call (02) 6624 3900 (8.30am – 5.00pm)

- Our **Bundaberg** premises will be open for NIS deliveries from 7:00am – 4:00pm, Monday- Friday during the season. Operating hours may be extended during the season to accommodate deliveries. To assist in the management of the delivery schedule at Bundaberg, bookings are required.

Phone Justin Evans on 0439650 004 or (07) 4155 9377 to make a booking.

- Our **Macksville** depot will be open for NIS deliveries from 6.00am – 10.30am each Wednesday during the season. If deliveries are made during these hours no bookings are required. To arrange deliveries outside these hours please contact:

Lee Fewings on (02) 6568 3003 or 0428 619 277.

- MM may limit the amount of NIS containing more than 10% NIH that it receives through its depots at approved dehusking facilities. The available tonnage will be allocated on a first in first served basis.

### Dehusking Facilities

- Approved dehusking facilities are the Summerland Farm and P&L Dehusking in Northern NSW and Macadamia Enterprises in Bundaberg.
- Growers who wish to deliver a consignment to MM via **Macadamia Enterprises** must contact Simon Andreoli (QLD) at MM prior to delivering to the facility. Any delivery to this approved dehusking facility that has not been pre-arranged with MM may be rejected.
- Deliveries to Macadamia Enterprises must be made on weekdays (no weekends or public holidays), and no deliveries will be accepted after 12pm on Fridays.
- To arrange deliveries for dehusking at **Summerland Farms** please contact:

Kim Bottomly on 0423 562 420 or [kbottomly@hwns.com.au](mailto:kbottomly@hwns.com.au)

- To arrange deliveries for dehusking at **P&L Dehusking** please contact:

Libby Hannigan on 0404 235 700 or [aliviamckinlay@gmail.com](mailto:aliviamckinlay@gmail.com)

## 10.2. Conditions that must be met prior to or at delivery

Marquis reserves the right not to accept delivery of any consignment if the following conditions have not been met:

- The minimum delivery weight is 800kg of NIS.
- Deliveries of NIH must contain 800kg of NIS.

- Whenever a contract carrier is used to deliver NIS, a consignment note must accompany the load listing the following:
  - The name of the supplier
  - Grower number
  - The approximate weight of the consignment
- The supplier must supply a completed MM 2023 Pre-Season Report which includes an 'Acceptance of the Terms and Conditions of Nut in Shell Purchase 2023 Season' prior to their first delivery for the season.
- The supplier must supply a MM 2023 'Delivery Report' for each delivery either before or upon arrival of the consignment at our receivals point. The report must be filled out with the details of the consignment and signed by the supplier or their authorised representative.

### 10.3. Pre-delivery and Pre-acceptance testing

- We encourage all suppliers to submit a representative pre-delivery sample to the MM Laboratory for all consignments. The results of this sample will be used to segregate NIS according to Commercial and Reject kernel content. A period of four to seven working days should be allowed for evaluation and testing of samples.
- If a pre-delivery test has been carried out, please provide a copy of these test results to receivals when you deliver. Alternatively, you may quote the pre-delivery test number at the time of delivery. This test number will be supplied by the MM laboratory along with the test results.
- A pre-acceptance test (Rapid Test) of a consignment will be conducted at the time of delivery, but prior to unloading of NIS into our hoppers, to assist MM staff in segregation of product. These results are in no way linked to payment for the consignment.

## 11. Freight

- Suppliers will be responsible for their freight charges to MMs Lismore or Bundaberg factories or to the nominated depots. Suppliers must make their own contractual arrangements directly with a cartage contractor of their choice. Cartage contractors will therefore act as agents for suppliers.
- Suppliers must ensure any truck or bin is cleaned prior to the loading of NIS in accordance with the Approved Supplier Program.
- Please note all deliveries must be scheduled in terms of **Section 10.1** above.

## 12. Risk and Title in NIS

- Risk in consignments shall only pass to MM upon delivery of NIS by the supplier or the supplier's employee, agent or contractor to MM nominated depots (including the approved dehusking facility) or to our Lismore or Bundaberg premises.
- Title in NIS shall be deemed to pass to MM upon the physical delivery and unloading of NIS into our hopper at our Lismore or Bundaberg premises or into the delivery hopper at the approved dehusking facility, whether or not such delivery and unloading is by a supplier's or MM employees, agents, or contractors. MM reserve the right not to accept any such delivery that fails to meet these Terms and Conditions.

## 13. Modern Slavery Act

MM is fully committed to operating responsibly and establishing and adhering to the highest ethical standards across our group, as such, in accordance with the Modern Slavery Act 2018, we have undertaken to identify and assess and control risks of modern slavery in our supply chains.

By supplying MM, growers agree to take reasonable steps to:

- Establish appropriate systems and processes to ensure risks or occurrences of Modern Slavery in their supply chains or any part of its business are identified, assessed and addressed.
- Notify MM as soon as reasonably practicable after they becomes aware of, or reasonably suspects, Modern Slavery is occurring in its supply chains or any part of its business.
- Should a grower suspect that there is modern slavery occurring they are to notify MM as soon as practically possible.
- Modern slavery is defined as including eight types of serious exploitation: trafficking in persons; slavery; servitude; forced marriage; forced labour; debt bondage; deceptive recruiting for labour or services; and the worst forms of child labour. The worst forms of child labour means situations where children are subjected to slavery or similar practices or engaged in hazardous work.