

2022 MELBOURNE INTERNATIONAL FLOWER & GARDEN SHOW

EXHIBITOR TERMS AND CONDITIONS

1. DEFINITIONS

In these Exhibitor Terms and Conditions, the following definitions apply:

"**Agreement**" means the agreement made between the Exhibitor and the Show Organisers comprising the Exhibitor Application Form, the Exhibitor Terms and Conditions and the Exhibitor's Manual.

"**Exhibitor**" means the person/company set out in the Exhibitor Application Form.

"**Exhibitor Application Form**" means the application form (attached) duly completed and signed by the Exhibitor.

"**Exhibitor Terms and Conditions**" means the Exhibitor terms and conditions set out in this document.

"**Exhibitor Manuals**" means the manual(s) provided by the Show Organisers to the Exhibitor containing information relating to the Show and exhibiting at the Show.

"**Exhibitor's Display**" means the Exhibitor's display at the Show.

"**Exhibition Fee**" means the fee payable for exhibition at the Show as set out in the Exhibitor Application Form.

"**Show**" means the 2022 Melbourne International Flower & Garden Show to be staged with dates to be advised.

"**Show Organisers**" mean Flowers Victoria, Nursery & Garden Industry Victoria and International Management Group of America Pty Ltd.

"**Venue**" means the Royal Exhibition Building and Carlton Gardens, Victoria.

2. APPLICATION FOR EXHIBITION

(a) All applications to exhibit at the Show shall be made on the Exhibitor Application Form. On receipt of the duly completed and signed Exhibitor Application Form and deposit, the Show Organisers may register the Exhibitor as an exhibitor at the Show. On acceptance of the Exhibitor, the Agreement will govern the Exhibitor's participation at the Show. The Show Organisers reserve the right to accept or reject any application without giving any reason therefore.

(b) The Exhibitor is not permitted to sub-license the right to exhibit at the Show, either wholly or in part, without the prior written consent of the Show Organisers. The Exhibitor shall ensure that any permitted sub-licensees comply with the Agreement and the Exhibitor shall be responsible for any default of such sub-licensees.

3. PROVISIONS PERTAINING TO THE VENUE

(a) The Exhibitor must observe and comply with the rules and regulations of the Venue, copies of which are included in the Exhibitor's Manual. The Exhibitor must observe all of the Venue's fire, electrical and safety laws and regulations.

(b) The Exhibitor must remove all of its property from the Venue immediately following the conclusion of the Exhibitor's Display. If the Exhibitor fails to remove all of its property immediately following the conclusion of the Exhibitor's Display the Show Organisers may remove such property and recover from the Exhibitor all costs incurred by the Show Organisers in doing so.

(c) The Exhibitor shall maintain the Site in the same condition as when possession of the Site was initially granted to the Exhibitor.

(d) The Show Organisers reserve the right to make any changes to the Show as deemed necessary by the Show Organisers, including (without limitation) changing the Show format, layout, changing Site locations, or making any other changes to the Event.

4. ACCESS

(a) The Exhibitor's Manual will set out the dates and times that goods may be delivered to the Venue prior to the opening of the Show. All such goods must be brought in and removed via the entrance and exits specified by the Show Organisers. The Exhibitor must accept the ruling of the Show Organisers with regard to the short and long term parking of delivery vehicles. No exhibit or other material will be allowed into or out of the Venue without an official delivery order or clearance document. The Exhibitor must make its own arrangements for transportation of exhibit and other material to and from the Venue. The Show Organisers will provide to the Exhibitor and their designated staff appropriate non-transferable accreditation. In the event of any such accreditation being transferred or otherwise disposed of, the accreditation will be immediately forfeited and no further accreditation will be issued.

(b) The Show Organisers and their affiliates accept no responsibility for any damage to the Exhibitor's property or any third party's property or vehicles whatsoever, and entry to the Venue is at the Exhibitor's own risk. The Exhibitor is responsible for fully briefing all delivery personnel and contract labour regarding compliance with the provisions of the Exhibitor Manual, site location, access points to the Venue and entry rules in effect.

5. PAYMENT

(a) The Exhibition Fee is non-refundable.

(b) The Exhibition Fee payable by the Exhibitor shall be the amount set out in the online application form unless otherwise agreed in writing with the Show Organiser.

(c) The Exhibitor agrees to pay the Exhibition Fee to the Show Organisers as follows: (i) for Early Bird applications, ten per cent (10%) of the Exhibition Fee shall be payable on the date of notification of the Exhibitor Application being accepted and thirty per cent (30%) of the Exhibition Fee shall be payable no later than 10 December 2022; and (ii) for non-Early Bird applications, forty per cent (40%) shall be payable no later than 10 December 2022; and (iii) the remaining sixty (60%) per cent shall be payable no later than 28 January 2022. In the event the date of the Exhibitor Application being accepted occurs within sixty (60) days before the first day of the Event, the entire Exhibitor Application Fee shall be payable on the date of the Exhibitor Application being accepted.

(d) Failure by the Exhibitor to pay the Exhibition Fee or any part of it in accordance with the terms set out in the Exhibitor Application Form entitles the Show Organisers to immediately terminate the Agreement by written notice to the Exhibitor and the Exhibitor shall forfeit any right to participate in the Show and any refund of any part of the Exhibition Fee previously paid.

(e) In the event you have secured your Exhibitor space during the early bird/discounted Price Period and have not fulfilled your payment obligations under this agreement, you acknowledge and agree that the Event Organiser may charge you the price for the Exhibitor space as of the date after your payment was due (which may be a higher, non-discounted price).

(f) Should any payment of the Exhibition Fee be payable by you via credit card, please note a 1.5% surcharge will be applied on all credit cards.

It should be noted that if an Exhibitor has not fully paid for their site prior to the Exhibitor briefing or moving on site then no passes for the event will be handed over to allow access until the full payment is received.

6. CONDUCT IN THE VENUE

The Exhibitor shall be responsible for the conduct of its employees, agents, contractors, sub-contractors and guests whilst at the Venue who shall be bound by and must observe the terms set out in the Exhibitor Application Form, these Exhibitor Terms and Conditions and the Exhibitor's Manual in all respects. The Show Organisers reserve the right to refuse any guest admission to the Show. The Show Organisers are entitled without incurring any liability whatsoever to remove the Exhibitor and/or any third party (including any guest) from the Venue for any conduct which the Show Organisers reasonably consider to be unsatisfactory including, but not limited to, the use of inappropriate or offensive language. The Exhibitor must, and must ensure that its employees, agents, contractors, sub-contractors and guests, at the Show comply with all reasonable directions of the Show Organisers.

7. SPONSORS

The Exhibitor acknowledges that the Show Organisers enter into agreements with various sponsors of the Show (the "**Sponsor(s)**") to underwrite the cost of the Show. The Exhibitor agrees that Sponsor signage, logos, advertising messages, publicity and other promotional materials (the "**Sponsor Materials**") may be displayed on the exterior of the buildings, in the lobby, backstage, on any video screen and in other areas at the Venue, in accordance with the terms agreed upon between the Show Organisers and each Sponsor. The Exhibitor must not cover up or block from view any Sponsor Materials.

8. PHOTOGRAPHERS, PUBLICITY AND MEDIA RIGHTS

- (a) The Exhibitor grants to the Show Organisers the right to use the Exhibitor's name and logo in connection with the Show, to publicise the fact that the Exhibitor has or will exhibit as part of the Show and in connection with the creation, distribution, exhibition and/or promotion of Recordings (as defined below) of the Exhibitor's Display in any manner or media, including Electronic Media (as defined below). Additionally, the Exhibitor acknowledges and agrees that the Show Organisers and/or their licensees will capture images of and record the Show, including the Exhibitor's Display (collectively the "**Recordings**"). The Exhibitor agrees and acknowledges that the Show Organisers, and their licensees will have the unlimited worldwide right to use, distribute, promote or exhibit the Recordings in any manner and media now known or hereinafter invented, including but not limited to electronic media of television, radio, internet, broadband, mobile phone, closed circuit television, wireless and other electronic distribution (the "**Electronic Media**"). The Show Organisers are the copyright owner of the Recordings. The Exhibitor agrees to sign any waiver/release documentation provided separately by the Show Organisers to give effect to these provisions.
- (b) The Exhibitor acknowledges and agrees that all videographers, photographers or others recording or photographing the Exhibitor's Display, including personnel engaged or invited by the Exhibitor (the "**Photographers**"), must be reviewed and qualified by the Show Organisers and receive credentials from the Show Organisers to access the Show and comply with news access rules.
- (c) The Exhibitor further acknowledges that only the Show Organisers and their licensees may transmit from the Show on a live or on tape-delayed basis, through print or in any Electronic Media. The Exhibitor further understands that the Photographers, as a condition of access, must obtain written permission from the Show Organisers to stream, transmit or otherwise make available by itself (or to license such rights to any third party) audio or audio/visual footage of the Exhibitor's Display in any Electronic Media, other than video news releases and/or news coverage of the Show not to exceed three minutes in length, or the private use of the Exhibitor (such as for in-store display at the Exhibitor's premises or retail outlets). All visual, audio-visual and still images and other content recorded at the Show (the "**Content**") may not be used in connection with any commercial use involving a third party without prior written consent from the Show Organisers.

9. INSURANCE

- (a) The Show Organisers will not be responsible for the Exhibitor's or the Exhibitor's staff's safety at the Venue or the security of property of any kind brought to the Venue. The Exhibitor is required to have for the duration of the set-up, Show and pull-down periods, the following insurance with a reputable insurer:
 - (i) Public liability insurance of no less than **\$10,000,000** per occurrence (compulsory)
 - (ii) Workers compensation insurance (as required by law)
 - (iii) Property damage including industrial, special risks, fire, theft etc. of no less than \$2 million for the Exhibitor's and third party property (recommended)
 - (iv) Contingency insurance (optional)

PLEASE NOTE: THE EXHIBITOR MUST PROVIDE A CERTIFICATE OF CURRENCY OF INSURANCE TO THE SHOW ORGANISERS PRIOR TO THE DATE SET OUT IN THE EXHIBITOR APPLICATION FORM AND PRIOR TO ACCESSING THE VENUE, AND MUST NOTE THE SHOW ORGANISERS AS FOLLOWS:

Interested Parties:

The Show Organisers being Flowers Victoria, Nursery & Garden Industry Victoria, Flower & Garden Show Limited and International Management Group of America Pty Limited, for their respective rights and interests between the dates of the Show (including set up and pull down dates).

Location: Australia Wide

Situation of Risk: Australia Wide, including trade show and exhibitions

- (b) In order to arrange this, the Exhibitor should ask its insurer to include the above wording on the Exhibitor's public liability insurance certificate. As soon as the Show Organisers have received a copy of the public liability insurance certificate with the interested parties correctly noted as listed above on the certificate along with the on-site dates, the Show Organisers will confirm the booking.

10. LIABILITY

- (a) Exhibition at the Show takes place entirely at the Exhibitor's risk. The Exhibitor will at all times indemnify and keep indemnified the Show Organisers from and against any loss or liability incurred by the Show Organisers arising from any claim, suit, action or proceedings (including legal costs on an indemnity basis) by any person against the Show Organisers where such loss or liability is in connection with: (a) any willful or negligent act or omission or breach of law or the Agreement by the Exhibitor or its employees, agents, contractors, sub-contractors or guests; (b) any claim made against the Show Organisers by any third party arising from the Exhibitor's exercise of its entitlements under this Agreement; and (c) damage or loss of property brought to the Venue and/or damage to the Venue, including to the hall, floors, fixtures and exhibits caused by the Exhibitor or its guests, servants, agents, employees and/or subcontractors. To the extent permitted by law, the Exhibitor releases the Show Organisers from any claim or liability in connection with the attendance of the Exhibitor, and its invitees and representatives at the Show including in relation to any injury or death to the Exhibitor or its representatives, except where such claim occurs as a direct result of the negligence of the Show Organisers or its authorised representatives.
- (b) In full knowledge and assumption of all of the risks, the Exhibitor hereby irrevocably agrees that they shall not make any claim against Show Organisers or any of their parents, subsidiary entities, affiliates, sponsors, successors and related parties for any injury (including

emotional and/or mental distress), illness, damage, loss or harm in connection with COVID-19 or otherwise, resulting or arising out of or in any way related to the Exhibitor's preparation for, travel for, participation and appearance in, provision of services at and/or attendance at the Show.

- (c) The Show Organisers shall not be liable to the Exhibitor for any consequential or indirect loss, loss of profits, loss of business or any special or exemplary damages suffered or incurred in connection with the Agreement or its actions or omissions in connection with it and the Show Organisers shall not be liable to the Exhibitor arising out of any breach of the Agreement for an amount in excess of the Exhibition Fee. In particular the Show Organisers shall not, in any event be liable for any loss, damage, injury, expense or other claim including, without limitation, relating to property or stock brought onto the Venue, as a result of restrictions or conditions which prevent the construction, erection, completion, alteration or dismantling of the Exhibitor's Display or for the entry, placement or removal of exhibits, or for the failure or malfunction of any of the services or facilities anticipated to be provided at the Show.
- (d) The Exhibitor acknowledges that it is responsible for its own security and property whilst exhibiting at the Show. The Show Organisers reserve the right to exercise a general lien over any property of the Exhibitor in the Venue in respect of all monies, of whatsoever nature, including in respect of claims for damages, which may at any time be due or payable by the Exhibitor to the Show Organisers in connection with the Show. Upon termination of the Agreement for any reason whatsoever, all of the Exhibitor's property must be removed by the Exhibitor from the Venue immediately.

11. NO RELIANCE

The Exhibitor agrees that it does not rely upon any representation, warranty, budget, projection, forecast or statement made by or on behalf of the Show Organisers including the completeness of any information provided as to the success or profitability of exhibiting at the Show, and that in so doing the Exhibitor relies on its own judgement and inquiries. To the maximum extent permitted by law, the Show Organisers disclaim all liability for any loss or damage suffered by any person using, disclosing, relying or acting on any information disclosed by the Show Organisers or its representatives.

12. NON-COMPLIANCE AND TERMINATION

This Agreement may be terminated by the Show Organisers by notice in writing to the Exhibitor upon the occurrence of any of the following events:

- (a) the Show is cancelled or postponed prior to commencement for any reason;
- (b) the staging of the Show or the performance of this Agreement by the Show Organisers is substantially or materially interfered with due to any cause or causes not reasonably within the control of the Show Organisers;
- (c) the Show Organisers are not satisfied that proper use is being made of the Exhibitor's Display at any time during the Show;
- (d) payment of the Exhibition Fee or any part of it is not made by the Exhibitor in accordance with clause 5 and the Exhibitor Application Form; or
- (e) the Exhibitor is in breach of any part of the Agreement (including these Exhibitor Terms and Conditions and the Exhibitor's Manual) or any applicable laws, regulations and codes of practice.

Upon termination of the Agreement by the Show Organisers for whatever reason, any allocation of display space to the Exhibitor shall be cancelled immediately and all payments made in respect to exhibition at the Show shall be forfeited except in the case of termination under clause 12(a) and 12(b) in which case the Show Organisers will refund to the Exhibitor the amounts of the Exhibition Fee paid by the Exhibitor prior to termination. In the event of termination under clause 12(c), 12(d) and/or 12(e) all payments made in respect to participation in the Show will be forfeited and retained by the Show Organisers and the Show Organisers shall have the right to claim for the balance of the Exhibition Fee and for any loss or damages suffered by the Show Organisers as a consequence thereof. If termination of this Agreement results other than from cancellation of the Show, the Show Organisers shall be entitled forthwith to re-licence the display space allocated to the Exhibitor.

13. CANCELLATION

- (a) If the performance of the Agreement by the Show Organisers is restricted, prevented, hindered, interfered with or delayed in whole or in part by reason of any cause beyond its control (including, but not limited to any law, regulation or order, act of God, earthquake, heavy rain leading to flooding fire, disease, epidemic or pandemic (including without limitation H1N1 swine flu, H1N5 bird flu, coronavirus or other similar virus), accident, explosion, casualty, labour controversy (including but not limited to threatened or actual lockout, boycott or strike), government decision or decree or a decision by any other relevant authority (including without limitation any sports federation or events rights holder), riot, civil disturbance, war or armed conflict, terrorist act or threat of terrorism, delay of a common carrier; or any other event or events beyond the reasonable control of Show Organiser or the Show Organisers decide for any reason whatsoever (to be determined by it in its sole and absolute discretion) (an "Event of Force Majeure") to cancel the Show and whether or not the same shall effect its or the Exhibitor's business or the Show, then the Show Organisers shall be entitled to cancel the Show with immediate effect by giving notice of the same to the Exhibitor. The undertakings made in the confirmation of reservation will cease to apply.
- (b) If the Event cannot be held or is cancelled (either prior to or after commencement) due to an Event of Force Majeure, Show Organiser shall be entitled to terminate this agreement as regards the Event (but without prejudice to the parties' respective obligations in relation to any future edition of the Event envisaged by this Agreement, if any) on written notice to the Exhibitor, and each party shall be relieved of its respective obligations hereunder (including any further payment obligations). The Exhibitor is not entitled to any refund for any cancellation of one or more days of the Show, unless the entire Show is cancelled prior to commencement and not re-scheduled in which case the Show Organisers will refund to the Exhibitor the amount of the Exhibition Fee paid by the Exhibitor prior to cancellation.
- (c) The Exhibitor shall not be entitled to any claim for compensation (including but not limited to additional expenses, charges, or losses) or damages whatsoever in connection with such cancellation, revocation or termination.
- (d) The Exhibitor may cancel this Agreement by giving notice in writing to the Show Organisers only as set out in this clause and by paying a cancellation fee to the Show Organisers as follows: (i) for cancellation up to and including 28 January 2022, Show Organisers will provide a full refund of the Site Fee that has been paid by the Exhibitor; (ii) for cancellation any time after 28 January 2022 no refunds shall be provided. The Exhibitor acknowledges that the cancellation fees set out in this clause are to cover administrative and other costs incurred by the Show Organisers and are a genuine pre-estimate of the loss to be suffered by the Show Organisers in the event of cancellation of this Agreement by the Exhibitor. If the Show Organisers are able to re-licence the allocated exhibition space, it may, at its sole discretion, waive all or part of the Exhibitor's liability for payment of the Site Fee.

14. NON-WAIVER

No failure or delay by the Show Organisers to exercise any right, power or privilege hereunder or other provisions of the Agreement

shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege of the Show Organisers is herein provided.

15. ACCREDITATION

Any accreditation issued is personal and non-transferable. The Show Organisers may withdraw any accreditation if the bearer fails to comply with any of the terms of the Agreement or other regulations in place at the Venue or the reasonable direction of the Show Organisers.

16. EXHIBITOR OBLIGATIONS

As a condition of entry into this Agreement the Exhibitor agrees that they or their staff shall:

- (a) not commit any act or omission which directly or indirectly may cause damage to the business, interests or reputation or bring into disrepute the Show Organisers or the Show;
- (b) at all times comply with Show Organiser's policies notified to the Exhibitor from time to time;
- (c) fully co-operate with Show Organiser in any action which Show Organiser considers necessary to maintain a working environment which is safe and without risk to health, or to ensure the safety and welfare of those present in the working environment;
- (d) understand the potential risks of attending the Show due to the COVID-19 pandemic;
- (e) will submit to any and all medical testing and any other procedures requested by Show Organisers;
- (f) will comply with any health and safety procedures established by Show Organisers for the Show and will observe all directions of Show Organisers in relation to health and safety (including without limitation the Covid-19 pandemic)

17. GENERAL

- (a) If GST is levied or imposed on or in respect of any supply made or in connection with this Agreement, then the consideration for that supply is increased by the rate at which GST is levied or imposed.
- (b) The Exhibitor must ensure that the exercise of its entitlements under the Agreement comply with all applicable laws, regulations and codes of practice to the laws of Australia.
- (c) This Agreement sets out the entire agreement between the parties and shall not be varied except in writing signed by both parties.
- (d) Nothing contained in this Agreement will create a joint venture, partnership or agency relationship between the Show Organisers and the Exhibitor and neither party will represent that it is the joint venturer, the partner or the agent of the other party.
- (e) The information contained in this Agreement is confidential and shall be held by each party in confidence and may not be disclosed by either party to any person (other than a related body corporate as defined in the *Corporations Act 2001* (Cth), their legal and financial advisers) without the consent of the other party unless required by law or in connection with legal proceedings related to the Agreement or if such information becomes generally and publicly available otherwise than as a result of a breach of this clause.
- (f) Notices under the Agreement may be delivered by hand or by pre-paid post to the address of the party to be served as set out in the Exhibitor Application Form or as otherwise advised, or sent by facsimile to a party's facsimile number as set out in the Exhibitor Application Form, or as otherwise advised. Notice is deemed given: (a) in the case of hand delivery, at the time the delivery is made; (b) in the case of pre-paid post, the day after the notice is posted; or (c) in the case of facsimile, upon production of a transmission report from the sending machine which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient.
- (g) This Agreement shall be governed by the laws of the State of Victoria and the Commonwealth of Australia and the parties agree to submit to the non-exclusive jurisdiction of the courts of the said State and Commonwealth.