

## TERMS AND CONDITIONS PLANT EXPO

Plant Expo Pty Ltd (ACN: 642010919) owns and manages the Brisbane Garden & Plant Expo, commonly referred to as PLANT EXPO.

### AGREED TERMS

- 1) This Agreement commences on the Commencement Date and continues for the duration of the Initial Term, unless terminated earlier in accordance with this Agreement.

### INDEMNITY

- 1) The Vendor is liable for, and indemnifies Plant Expo Pty Ltd (ACN: 642010919) [referred to as PLANT EXPO in this document] and its agents from and against, all loss or damage (including legal costs) incurred or suffered by PLANT EXPO however caused in connection with:
  - a. any breach of this Agreement by the Vendor.
  - b. the enforcement of PLANT EXPO's rights in connection with any alleged or actual breach of this Agreement by the Vendor.
  - c. any negligence, fraud, unlawful or other wrongful act or omission of the Vendor, its employees, subcontractors, agents, or other Representatives.
  - d. any alleged or actual infringement of a third party's Intellectual Property Rights or other rights in connection with the Vendor performing its obligations under this Agreement or PLANT EXPO receiving the Services.
  - e. personal injury or death of any person (including any EXPO attendees, employees, subcontractors, agents or other Representatives of the Vendor) in connection with the Vendor performing or failing to perform its obligations under this Agreement, WHS or PLANT EXPO receiving the Services;
  - f. loss or destruction of, or damage to, any property in connection with the Vendor performing or failing to perform its obligations under this Agreement or PLANT EXPO receiving the Services; or
  - g. any claim of any employee, contractor, or agent of the Vendor to payments, entitlements or benefits under any contract, arrangement, or applicable law.
- 2) Each indemnity contained in this Agreement is a continuing obligation notwithstanding:
  - a. any settlement of account; or
  - b. the occurrence of any other thing,  
and it is not necessary for PLANT EXPO to incur expense or make payment before enforcing or making a claim under an indemnity.
- 3) If a claim or allegation is made by a third party alleging that PLANT EXPO's possession or use of a Deliverable infringes that third party's Intellectual Property Rights or other right, if PLANT EXPO requires, the Vendor must at its own expense and at PLANT EXPO's option either:
  - a. modify or replace the Deliverable (or the infringing part thereof) so that it becomes non-infringing without adversely affecting the capability of the Deliverable; or
  - b. procure for PLANT EXPO the right to continue to use the Deliverable.

### RELATIONSHIP BETWEEN THE PARTIES

- 1) This Agreement does not create a relationship of employment, trust, agency, or partnership between the parties.
- 2) The Vendor must not, and must ensure that its employees, contractors, and agents do not, represent themselves as employees or agents of PLANT EXPO.

### THE VENDOR MUST:

- 1) take reasonable care, account for, and preserve of all PLANT EXPO Assets and all other property belonging to third parties at the BRISBANE GARDEN & PLANT EXPO Autumn Event (Third Party Assets).
- 2) promptly inform PLANT EXPO of any loss, destruction or damage to any PLANT EXPO Assets or Third-Party Assets.
- 3) indemnify PLANT EXPO for any loss or destruction of, or damage to, any PLANT EXPO Assets or Third Party Assets caused by any act or omission of the Vendor, its employees,

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- agents or contractors, and otherwise comply with any reasonable instruction of PLANT EXPO for replacing, preserving, forwarding or disposing of any damaged asset at its own cost;
- 4) not use or allow others to use any PLANT EXPO Assets or Third-Party Assets for any purpose other than the purposes of this Agreement without the prior written consent of PLANT EXPO.
  - 5) not remove from PLANT EXPO nor part with possession of any PLANT EXPO Assets or Third-Party Assets without the prior written consent of PLANT EXPO.
  - 6) not create or allow the creation of any lien, charge or mortgage over any PLANT EXPO Assets or Third-Party Assets.
  - 7) not modify any PLANT EXPO Assets or Third-Party Assets without the prior written consent of PLANT EXPO.

### **REPRESENTATIVES**

- 1) The PLANT EXPO Representative will represent PLANT EXPO for the day to day purposes of this Agreement.
- 2) The Vendor Representative will represent the Vendor for the day to day purposes of this Agreement.

### **WARRANTIES**

- 1) The Vendor warrants that in entering into this Agreement the Vendor has:
  - a. assessed all alternative scenarios and approaches.
  - b. made all necessary enquiries and site inspections it requires to satisfy themselves with the site selection in delivering Services in relation to this agreement, and does not have any concerns or issues that may prevent it fulfilling its obligations under this Agreement;
  - c. examined all information available to it, which is relevant to risks, contingencies and other circumstances which could affect its ability to perform the Services.
  - d. satisfied itself as to the availability of the resources required.
  - e. satisfied itself as to the nature and degree of difficulty of its obligations under this Agreement; and
  - f. satisfied itself as to its ability to perform the Services in accordance with this Agreement.
- 2) The Vendor warrants that:
  - a. all information provided by the Vendor or on the Vendor's behalf to PLANT EXPO is accurate and is not, whether by omission of information or otherwise, misleading.
  - b. the Vendor has not intentionally withheld from PLANT EXPO any document, information, or other fact material to the decision of PLANT EXPO to enter into this Agreement; and
  - c. the Vendor did not rely upon any representation made by PLANT EXPO or on PLANT EXPO's behalf to the Vendor prior to entry into this Agreement.

### **ASSIGNMENT**

- 1) The Vendor must not assign, in whole or in part, or novate the Vendor's rights and obligations under this Agreement without the prior written consent of PLANT EXPO.
- 2) PLANT EXPO may assign or novate PLANT EXPO's rights and obligations under this Agreement without the prior written consent of the Vendor.