



Nursery & Garden Industry  
Victoria

NURSERY & GARDEN INDUSTRY VICTORIA

ACN 004 179 373

# Buyer's Trade Day Conduct Terms & Conditions

effective on and from 1 July 2017

**NURSERY & GARDEN INDUSTRY VICTORIA** - ABN 92 004 179 373

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## 1. Background

- (a) These terms & conditions are intended to protect and enhance the integrity and reputation of Trade Day as the best, and largest horticultural trade market in the Southern Hemisphere.
- (b) These terms & conditions form part of the Contract.
- (c) Each Buyer acknowledges and agrees that it is bound by these terms & conditions and that they are necessary for the protection of the legitimate business and other interests of NGIV and Members of NGIV.

## 2. Definitions and interpretation

In these terms & conditions:

- (a) **Buyer** means an individual, organisation or other entity that NGIV has permitted to attend Trade Day pursuant to a contract with NGIV in relation to that attendance.
- (b) **Contract** means the contractual arrangements from time to time under which a Buyer is entitled to attend Trade Day.
- (c) **Eligible Trader** means an entity which is genuinely and legally carrying on business in the Industry.
- (d) **Industry** means the nursery & garden industry.
- (e) **Member** means a member of NGIV.
- (f) **NGIV** means Nursery & Garden Industry Victoria ACN 004 179 373.
- (g) **Site Rules** means the rules, policies & procedures of the owner of Caribbean Gardens relevant to Trade Day.
- (h) **Trade Day** means the trade day market organised by NGIV and held ordinarily on the 1<sup>st</sup> Tuesday of each month at the Caribbean Gardens site in Scoresby.
- (i) If the Buyer is an individual, a reference in these terms & conditions to a representative of the Buyer includes a reference to that individual.

## 3. Becoming a Buyer

- (a) To become a Buyer, the individual, organisation or other entity must be an Eligible Trader.
- (b) The term of the Contract is from 1 July to the following 30 June, subject to clause 6.
- (c) NGIV may, before the end of the prevailing Contract term, offer to renew the Contract for a further term. If the Buyer pays the annual fee for the renewed term within 30 days of the end of the prevailing term, the term is automatically renewed.

## 4. Conduct

- (a) A representative of the Buyer must be over 18 years of age, and:
    - (1) wear his or her 'Buyer pass' conspicuously;
    - (2) wear closed footwear; and
    - (3) carry, and show to NGIV upon request, their Buyer credentials,at all times whilst at Trade Day.
  - (b) A representative of the Buyer must check-in at the entry point of Caribbean Gardens on each Trade Day.
  - (c) Each 'Buyer pass' is personal to the Buyer and is not transferable.
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- (d) A representative of the Buyer must:
    - (1) behave with courtesy, professionalism and respect at all times;
    - (2) not consume alcohol or any illicit substance, or smoke other than in designated smoking areas, without the express permission of NGIV,whilst at Trade Day.
  - (e) The Buyer is not entitled to bring visitors or other invitees to Trade Day.
  - (f) The Buyer and its representatives must not:
    - (1) sell or attempt to sell, or solicit orders for, the Buyer's own products or services to other attendees at Trade Day;
    - (2) hand out samples, product catalogues, handouts or other advertising material at Trade Day; or
    - (3) engage in any other conduct at Trade Day that NGIV, in its absolute discretion, determines is contrary to the spirit, intent and/or reputation of Trade Day and/or NGIV,but these prohibitions are not intended to prevent social interaction or general business networking activities.
  - (g) Commencement and cessation times set by NGIV and relevant to Trade Day must be adhered to strictly.
  - (h) Without limiting clause 4(g):
    - (1) purchases may only be made from 7:00am; and
    - (2) stock collection/plant movement may only occur from 8:00am.
  - (i) In relation to stock cartage trolleys made available by NGIV:
    - (1) trolleys can be paid for from 6:30am and collected from the dome after 8:00am;
    - (2) there is a daily hire fee (which will be advised to the Buyer from time to time);
    - (3) no person may ride or sit in a trolley;
    - (4) a trolley hired by a Buyer may not be given to or used by any other attendee Trade Day;
    - (5) trolleys must be returned to the dome by the Buyer; and
    - (6) if a trolley is damaged or not returned as required, the Buyer must pay to NGIV a fee of up to \$550 (depending upon the loss or damage incurred).
  - (j) A representative of the Buyer who observes a personal injury, chemical spill, soil spill or other risky or potentially dangerous situation must notify NGIV promptly of that event or circumstance.
  - (k) A representative of the Buyer must park any motorised vehicle in the designated Buyer's carpark.
  - (l) The Buyer must adhere to all Site Rules.
  - (m) The use of bicycles, rollerblades or skateboards is strictly forbidden.
  - (n) Pets other than guide dogs are not permitted at Trade Day.
  - (o) Buyers must ensure that any persons under the age of 18 accompanying a representative of the Buyer are strictly supervised and the Buyer is responsible for any loss or damage caused by such minors.
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- (p) The Buyer:
- (1) must ensure that its representatives comply with relevant provisions of the Contract at all times, as if they were parties to it themselves;
  - (2) must, and must ensure that its representatives, comply with all applicable laws at or in relation to Trade Day, and all Site Rules; and
  - (3) is responsible at all times for the conduct of its representatives at or in relation to Trade Day.

## 5. Annual fee

NGIV will determine annual fees payable by the Buyer.

## 6. Termination

- (a) The Contract terminates automatically if the Buyer does not pay:
- (1) an applicable annual fee on or before 30 days after the relevant due date; or
  - (2) any other sum due to NGIV within 7 days (or such longer period specified by NGIV in writing) of a request from NGIV.
- (b) NGIV may terminate the Contract if, in NGIV's reasonable opinion, the Buyer ceases to be an Eligible Trader.
- (c) NGIV may terminate the Contract if, in NGIV's opinion:
- (1) the Buyer breaches a material term of the Contract and has not remedied that breach within any time period specified by NGIV; or
  - (2) the conduct or circumstances of the Buyer or its representatives has, or appears to NGIV reasonably likely to have, a detrimental impact on the activities, goodwill or reputation of NGIV.
- (d) The Buyer may terminate this Contract at any time by notice in writing to NGIV.
- (e) Notice of termination by a party to this Contract must be in writing and given to the other party.

## 7. Miscellaneous

- (a) If a 'Buyer pass' is lost, irreparably damaged or otherwise becomes unusable, NGIV may charge the Buyer a card replacement fee.
- (b) The names of Buyers and their representatives may be included on publicly available lists as part of NGIV's ordinary promotional and other activities.
- (c) NGIV reserves the right to use photographs taken at Trade Day, which may include Buyer materials and Buyer representatives, for its ordinary activities.
- (d) NGIV may amend the Contract by notice in writing to the Buyer any time where to do so is necessary or desirable to protect NGIV's interests. If NGIV amends the Contract, it will take reasonable steps to give notice to the Buyer of the amendment, but a failure of the Buyer to receive such notice does not invalidate the amendment.