



Night Bites @ Palmy - General Terms and Conditions

1. Preamble

These General Terms & Conditions must be read in conjunction with all other documents supplied from time to time by The Market Co. GC (TMCGC). This includes, but is not limited to, Contingency Plans for Hazardous Weather, Emergency Evacuation Plan, Traffic Management Plan and a CovidSafe Market Plan (CSMP). The CSMP is amended on a regular basis as changes are made to it by the Queensland State Government.

All applicants must submit an Application Form prior to trading, whether purchasing or taking over the business of an existing Stallholder or applying for a new business. By submitting an Application Form and paying the relevant Fees and any other application fees required by TMCGC, Stallholders agree to be bound by these General Terms and Conditions (which includes any other terms, conditions, policies and procedures set out in any documents provided from time to time).

Stallholders acknowledge that they may also be subject to further terms and conditions specific to a Market and will be notified of such specific terms and conditions prior to the event.

If a Stallholder is found to be in breach of these General Terms and Conditions TMCGC may, without warning, elect to immediately withdraw the Stallholder's Approval to Operate.

2. Attendance at Markets

Stallholders agree to operate at the Night Bites @ Palmy Market as a Stallholder. As a Market that operates "Rain, Hail or Shine", Inclement weather is not an excuse for not attending.

TMCGC operates Markets on a permanent basis throughout the entire year. As a Stallholder you have a responsibility to attend every regular Market. In the event that a Stallholder is not able to attend a Market for whatever reason, including but not limited to holidays, business trips, illness, injury, motor vehicle breakdown, strong winds and/or rain, or any other unexpected event or emergency, a Stallholder will still be obliged to pay the requisite Stall Fees. This also ensures the continued loyalty of our customers and the ongoing successful operation of the Markets and fellow Stallholders whose income relies on a thriving Night Bites @ Palmy.

Stallholders acknowledge that it is not TMCGC's responsibility, if for any reason, a stallholder is

unable, or does not wish, to attend a Market on Market Day.

3. Compliance with Statutes, Regulations, etc.

Stallholders must:

- a) Ensure that their business is registered in accordance with all relevant State Government and local Council regulations.
- b) Punctually comply with and observe all Statutes and all orders, ordinances and regulations relating to the Markets and to their activities at the Market.
- c) Not do or omit to do any act or thing whereby TMCGC may become liable to pay any penalty or bear any expenses incurred under any statute, ordinance, regulation, by-law, order, requirement, or notice.
- d) Be equipped with a fire blanket and fire extinguisher at all Markets.

4. Contingency Plans for Hazardous Weather

Stallholders agree that they will read and comply with the terms of the **Contingency Plans for Hazardous Weather** document provided under separate cover.

5. COVID-19

Stallholders agree that they will read and comply with the policies and procedures outlined in the **CovidSafe Market Plan** provided under separate cover, amended by Qld State Government from time to time.

6. Dogs

City of Gold Coast's health regulations state that dogs are not permitted in areas where food is prepared or stored.

7. Electrical Equipment

No Stallholder can use electrical equipment of any kind that has not been tested by a qualified

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electrician and has a current tag attached. All power leads should be heavy duty construction standard and must have a circuit breaker. Double adaptors are not permitted for commercial usage. A copy of your electrician's Detailed Latest Test Results Report must also be available for inspection at all times. Stallholders will be required to remove instantly from a Market any equipment with out-of-date testing and tagging displayed.

Stallholders are not permitted to plug in their power cords, rearrange power cords or remove power cords from power boards provided for stallholders' use. This can only be carried out by a TMC GC staff member.

8. Eligibility Criteria

TMC GC is committed to bringing premium quality, fresh and gourmet foods to consumers in public spaces within Australia. TMC GC will give preference to the following types of Stallholders:

- a) Queensland and northern N.S.W. residents
- b) Producers who grow, make or produce the food themselves within a 200km radius of the Market.
- c) Artisans who make authentic exciting products
- d) Gluten free and vegetarian foods.

TMC GC strives to have a diverse and rich mix of Stallholders on each Market Day. The number of Stallholders selling one kind or type of product will be at the sole discretion of TMC GC.

TMC GC will retain the right, in its sole discretion, to refuse Stallholders and/or their staff, agents, or contractors, entry to its Markets and need not provide reasons for such refusal.

TMC GC reserves the right, in its sole discretion, to withdraw a Stallholders' Approval to Operate, at any time and for any reason. Stallholders acknowledge and agree that TMC GC is not liable to a Stallholder in relation to any loss or damage a Stallholder may suffer as a result of TMC GC's decision to withdraw a Stallholder's Approval to Operate.

9. Emergency Evacuation Management Plan

Stallholders agree that they will read and comply with the terms of the **Emergency Evacuation Management Plan** document provided under separate cover.

10. Equipment

Unless the use of certain equipment is specified by TMC GC, Stallholders must use their own judgement about what equipment is required for the selling of their produce or products.

TMC GC does not supply equipment to the Stallholders. Stallholders will need to bring everything required, including but not limited to coloured gazebos, trolleys, gazebo metal or cement weights, ropes, tarpaulins, tables, fitted black or hessian tablecloths that reach to the ground, stools (never chairs). And, don't forget the float!

It is a requirement that every stall must have fairy lighting/neon signs to entice customers to the site and as a Workplace Health & Safety component of the site. Please see <http://www.sketchandetch.com.au/> for some creative ideas.

Gazebos must be adequately weighted down with 15kg metal or cement weights on all legs at all times for work, health and safety reasons. When severe weather is forecast 30kg metal or cement weights must be used on all gazebo legs. TMC GC staff will inspect Stallholders' gazebos to ensure weights are being used appropriately. Weights are mandatory and must be used at every Market. Failure to provide weights for whatever reason will result in management requiring the stallholder to dismantle the gazebo or gazebos immediately. Work health and safety and public liability laws apply at all our Markets.

Stallholders agree and acknowledge that:

- a) They are restricted to their stall site
- b) All measures should be used to enhance the illumination of the stall.
- c) They must comply with all relevant state and federal laws, including but not limited to relevant Occupational Work Health and Safety laws
- d) No produce, materials or other items (such as sandwich boards, signs, banners, flags) can be placed in the aisles or on the ground in front of or behind the stalls
- e) TMC GC may give direction on where the Stallholder must place their equipment or signage; and
- f) TMC GC may require Stallholders to remove dangerous, faulty or unsightly equipment.

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g) It is the responsibility of all stallholders to protect their products and should, at all times, have the necessary equipment to do so (e.g. additional shade gazebos, shade umbrellas, or sides for gazebos to protect against sun, wind and rain). In a food preparation area, suitable safe ground cover must be used to guard against oil or other ingredients' spillages. TMC GC will not be liable to Stallholders for damaged or broken stock, however caused. TMC GC has a limited number of gazebos sometimes available for hire but cannot guarantee their availability.

h) Gas Bottle Safety – where food stalls have gas bottles onsite – please ensure it is connected to an appliance even when not in use or stored away for any food stalls. LPG Safety checklist should be completed by the stallholder and available for inspection.

11. Exclusivity

No Stallholder is guaranteed exclusivity for their products at any Market unless they have specifically negotiated such exclusivity with TMC GC.

12. Extraordinary Charges, Fees and Other Costs

Should TMC GC incur any extraordinary costs, expenses or other charges (Additional Charges) as a result of a Stallholder's activity at a Market, TMC GC will be entitled to be reimbursed for such costs, within a reasonable time frame, and may, at its discretion, invoice the Stallholder for those costs. Example of such additional costs may include (but is not limited to) costs of maintenance of TMC GC equipment, extraordinary cleaning charges, contract electrical charges from the use of your faulty equipment or any other outlay reasonably incurred by TMC GC in relation to one or more Stallholders.

13. Food preparation for Sale to Public

Stallholders selling ready to eat foods or offering samples to the public will require a Temporary Food Stall License from City of Gold Coast for the operation of their business at our Markets. The Health Department City of Gold Coast must be contacted to ascertain whether this license is applicable. If required, it is essential that the Stallholder complies strictly with the terms of their Temporary Food Stall License and a copy of this

License must be kept at the stall site at all times for Council inspection.

In addition, Stallholders handling ready to eat foods must undertake a 2-day Food Safety Supervisor's Course at TAFE or online and if requested by TMC GC, must produce proof of completion of the course.

If TMC GC reasonably believes that a Stallholder is not complying with any laws or requirements regarding the preparation, presentation, or sale of food, then TMC GC may withdraw the Stallholder's Approval to Operate at a Market.

Some handy links for you below:

Specific licensing application information:

www.lgtoolbox.qld.gov.au/GoldCoastCC/EH/FoodBusinessTemporary/Pages/HowToApply.aspx

Operator education:

www.lgtoolbox.qld.gov.au/GoldCoastCC/EH/FoodBusinessTemporary/Pages/ToolsandResources.aspx

14. Force Majeure

In the event that TMC GC is unable to operate a Market or Markets, or is otherwise unable to comply with its obligations under this Agreement, as a result of a Force Majeure, or for some other reason outside the control of TMC GC, then TMC GC is not:-

(a) liable for any costs, damages, or loss incurred by the Stallholder as a result of the delay or cancellation of a Market; or

(b) required to refund to the Stallholder any Stall Fees or other fees paid to TMC GC in relation to any delayed or cancelled Market.

15. Goods for sale

All goods for sale must be approved by TMC GC. Should there be a desire to add or change the mix of products offered for sale, an application must be made in writing to TMC GC. TMC GC reserves the right to specify or refuse approval of certain types of products a Stallholder may wish to sell on any Market Day. Multi-level Marketing (MLM) companies and commercial operations are not permitted to operate at TMC GC Markets.

16. Governing law

These Terms and Conditions will be construed in accordance with the laws of Queensland.

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17. Insurance

All Stallholders must have current public and product liability insurance providing a minimum of \$10 million cover. Stallholders must provide evidence of current insurance cover prior to trading at TMC GC's Markets and thereafter upon reasonable request from TMC GC and must have a copy of the Certificate of Currency at any Market at which they operate.

Stallholders must also have current WorkCover Insurance for all employees, if applicable. Stallholders agree that they will otherwise hold any forms of insurance that are reasonable to protect themselves and their property against any loss or damage. TMC GC may request copies of these insurance policies on an annual basis. Failure to provide evidence of current insurance cover will lead to withdrawal of approval to operate at the Markets.

18. Labelling Truthfully

All labelling must conform to the Queensland Health Department's standards. Assistance is contained in the "Label Buster Guide" available from Queensland Health, however all Stallholders must obtain their own advice in relation to legal requirements. Queensland Health, from time to time, visits the Market to ensure all labelling and packaging conforms to State Regulations.

From 1 July 2018, food to be sold in Australia must be labelled according to the requirements of the Country of Origin Food Labelling Information Standard 2016. It requires most food suitable for retail sale in Australia to carry country of origin information.

- **Certified Organic, 'in conversion to organic' and Biodynamic** labelling can only be used on foods that has been certified by an accredited certification body. Documentation must be maintained to verify the certification status of each product labelled to enable verification of the products so labelled. This will be provided through the certificates for each product claiming to be certified. Current Certificates must be displayed at all times. The Organic certification program can cover both Biodynamic (or BD) certification as well as organic certification.
- **Chemical Free:** A certificate from the Chemical Free Farmers Association must be displayed to provide reassurance to the buying public.
- **Grown by an Organic or Biodynamic Process:** Should you wish to state the

contents of your products or produce are 'grown organically or Biodynamically' but they are not certified, a sign must be displayed detailing the growing processes used.

19. Liability and indemnity

A Stallholder indemnifies TMC GC against all claims, damages, costs, or expenses which TMC GC may sustain or incur or for which TMC GC may become liable as a result of:

- (a) loss, damage, or injury from any cause to property or person at a Market occasioned or contributed to by the neglect or failure of the Stallholder or any servant, agent, or invitee to perform any of the conditions of this agreement
- (b) loss, damage, or injury from any cause to property or person caused or contributed to by the Stallholder, or any servant, agent, licensee, invitee arising out of the activities of the Stallholder at a Market; and
- (c) any personal injury sustained by any person in or about the Stallholder's Stall Site resulting from any cause whatsoever.

Stallholder agrees that they attend and trade at a Market at their own risk. Stallholder agrees that TMC GC will not in any circumstances be liable to the Stallholder for any personal injury or damage to the equipment, merchandise, stock-in-trade, or any other property of any description in the possession of the Stallholder at the Market.

Stallholder agrees that TMC GC will not be liable for any loss of profits resulting from the damage even if the damage occurs by reason of any act or omission by TMC GC, its employees or agents.

20. Parking

Stallholders and their staff must park their vehicles where directed by TMC GC. Stallholders must continue to remind staff, new and old, of their obligation to only park in the car park provided for them. All other car parking spaces must only be used by visitors to the Market.

Parking illegally, or in spaces reserved for the public visiting the Markets or hindering the normal flow of traffic in and around each Market site could

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jeopardise the continuing operation of the Markets and is not permitted. Any Stallholder or staff member found to be parking contrary to TMC GC's directions will be deemed to be in breach of these General Terms and Conditions and TMC GC may terminate its agreement with the Stallholder immediately

Stallholders remain liable for any parking infringement notices, damage to vehicles or related issues regarding parking of their vehicles.

21. Payment of Stall Site and Other Fees

Payment of site fees are required eight (8) days prior to a market date. For example, for a market date of 10 September 2022, pre-payment is required no later than Friday 2 September 2022. When a booking is confirmed the stallholder will be contacted and all relevant market information will be provided.

22. Plastics – Bags, Containers and Utensils

Stallholders' goods should not be bagged into plastic bags for sale to the public.

Any food and drinks sold by a Stallholder should be given to customers in responsibly sourced paper, or beneficial bioplastic made from plant-based resins derived from plant starch such as tapioca and corn or sweet sugarcane pulp (bagasse) containers and plates. Eating utensils, serviettes, stirrers and drinking straws must be single use and manufactured from plant material.

23. Power

Electricity will be provided for an additional cost. Electricity is only available for the purpose approved and will be subject to availability at some Markets. Stallholders acknowledge that TMC GC provides no warranty as to the availability of electricity at any specific Market and Stallholders will not be entitled to any refund or compensation due to any issues relating to the supply of electricity.

TMC GC does not provide any equipment for Stallholders to connect to the electricity. Stallholders may only use power leads and electrical equipment that are safe, comply with Occupational Health and Safety requirements, and are tested and tagged. TMC GC reserves the right to inspect electrical equipment and cables at any time. Stallholders will be asked to remove immediately equipment from a Market in circumstances where the equipment is untagged or tagged out of date, or in circumstances where Stallholders cannot produce a Detailed Latest Test Results Report upon request.

Electric power leads must be heavy duty construction standard, connected to TMC GC provided power boards or wall power outlets and used with due consideration so they do not impede the safe public walkways for members of the public.

Stallholders are not permitted to plug in their power cords, rearrange power cords or remove power cords from power boards provided for stallholders' use. This can only be carried out by TMC GC staff members.

Double adaptors are not permitted for commercial usage.

24. Promotion

TMC GC reserves the right to advertise or promote Stallholders in connection with TMC GC and the Stallholder provides its irrevocable consent to TMC GC taking and using photos and/or videos which may contain images of Stallholders and/or their produce.

25. Refunds & Credits

Stallholders agree and acknowledge that:

- (a) Stall Fees are not refundable whether they have attended a Market, or not
- (b) Credits and refunds will not be issued due to bad weather on Market days. TMC GC operates its Markets regardless of the weather; and
- (c) Refunds or credits will not be issued relating to the Force Majeure clause contained herein.

26. Rubbish, Waste & Recycling

The school can provide recycling and composting facilities which means all food waste can be left in 20L (or larger) buckets. This food waste will then be placed in their composting equipment which will change it to extraordinary nutrients for public and private gardens and parks.

The school is also providing new compartmentalised bins around the school grounds for visitors to the Market. These bins should make it easier for our customers to sort their waste into the correct bin.

No stallholder rubbish can be placed in the bins provided for the public's use.

No waste of any sort should be placed in any large industrial waste bins used by the landowner. No liquids of any sort or oils can be tipped down drains or sinks.

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The Stall Site must be left in the condition it was found. Should a Stallholder not make good their site at the end of any Market Day, TMC GC reserves the right to charge Stallholders a Cleaning Fee and/or withdraw the Stallholder's Approval to Operate.

27. Severance

If any clause in these Terms and Conditions is, for any reason, considered or found by a court of competent jurisdiction or any competent government authority to be invalid, illegal or unenforceable, that term is to be severed from the remainder of the terms of these Terms and Conditions and will be deemed never to have been part of these Terms and Conditions. The remainder of the terms will remain in full force and effect.

28. Social Media

It is strongly advised that all Stallholders have business Facebook and Instagram pages. Any business not engaging with technology and social media will have major problems surviving in the future. Staff at TMC GC's Market HQ office will be pleased to offer informal classes in basic social media skills.

29. Stall Requirements

All Stallholders must use gazebos and/or trestle tables and will be subject to local food legislation and regulations.

Trestle tables must be covered with fitted black polyester or hessian fabric that reaches the ground on all sides and produce for sale must be displayed in a visually attractive way. All products must have prices prominently displayed.

If a stall is on bitumen or another hard surface such as a netball or basketball court and you are preparing hot foods which are likely to cause oil stains or other damage to the surface, it is the responsibility of the stallholder to ensure that there is a suitable and safe ground cover in the stall and that the site is left in a clean state on completion of the market.

30. Stallholder Sites

Stallholders obtain **no right, title or interest in the Stall Site** and cannot transfer or otherwise deal with a Stall Site. This applies irrespective of the tenure of a Stallholder or any advance payment made. Stallholders acknowledge and agree that TMC GC may move Stallholders at any time to different site on different Market Days.

31. Standards of Presentation and Behaviour

Stallholders and their staff who attend and sell at the Markets must have a solid understanding of the produce/product offered for sale.

All products offered for sale **must** be clearly marked with a price.

Stallholders must be clean and neatly presented, preferably wearing a uniform or consistently coloured shirts if there is more than one person selling at each stall. Shoes must be worn at all times.

Stallholders and staff must not smoke within the Market precincts and car parks.

Stallholders and staff must remove aprons before going to toilet.

If for some reason, such as a medical condition, Stallholders must sit during a Market, only elevated stools are permitted as this will encourage interaction with the public. Low chairs are not permitted.

Stallholders should not wear earphones, talk on a mobile phone, text, Facebook, Instagram, Twitter or use other devices whilst manning a stall, apart from when posting on your Facebook or Instagram pages or like or sharing posts from the Markets' pages. Looking down at a screen does not encourage any interaction with a prospective customer and could lead to the failure of a business to thrive.

Stallholders must be polite and well-mannered to TMC GC Management, other Stallholders, staff and customers at all times. Stallholders must comply with all TMC GC's directions at all times. Friendliness, smiling and using customers' names is strongly encouraged!

32. Term

These General Terms and Conditions continue to apply to the Stallholder in conjunction with any other General Terms and Conditions relating to any other market of TMC GC.

All amounts owing by the Stallholder to TMC GC at the time the Stallholder ceases to operate at the Market will become immediately due and payable to TMC GC.

33. Trading times

Times are subject to change at any time. However, TMC GC will use reasonable endeavours to provide as much notice as possible of any change in trading times and will publish trading times of its Markets on its Website, Facebook pages and Instagram.

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Night Bites @ Palmy - Palm Beach-Currumbin High School, Thrower Drive, Palm Beach – Every Saturday 4pm-9pm

- You may commence set up no earlier than 2.30pm or as directed by TMC GC.
- Vehicles may enter and depart the Market precincts at no more than 4kms/hr with hazard lights flashing to unload and pack up at your Stall Site.
- If directed by TMC GC's staff, your vehicle(s) must be removed from the Market precinct at least 30 minutes prior to the commencement time and parked where directed by TMC GC staff.
- There must be no vehicle movement on the Market Site until at least 30 minutes after the end of the Market and only then when most of the customers have departed the site and TMC GC gives permission to depart (always with due consideration of those customers still in attendance and those Stallholders still packing up their sites).

Stallholders are not permitted to pack up and leave the Stall Site because of rain or any other weather conditions without the consent of TMC GC or from a Market Manager. If Stallholders sell out of product prior to the Market closing time they are not permitted to pack up and leave early without the express consent of TMC GC. The stall must not be dismantled, and a prominent sign should be displayed, similar to **'SORRY - (Stallholder's name and the products being sold) SOLD OUT! We look forward to seeing you next week.'**

34. Traffic Management

Stallholders agree that they will read and comply with the terms of the **Traffic Management Plan – Bump in Bump out** document provided under separate cover.

35. Unacceptable behaviour

Rudeness, ignoring the instructions of TMC GC or any anti-social behaviour, whether in person, by phone, by email or social media, will be considered a breach of these General Terms and Conditions. Such behaviour will not be tolerated and may result in the immediate ejection from a Market with no refunds or credits applying. TMC GC retains the right to refuse entry to a Market to any Stallholder acting in this manner.

Offensive language and aggressive behaviour towards other stallholders, their staff, Market Management or customers in general is grounds

for instant withdrawal of approval to attend TMC GC's markets. Also, major disruption and damage to the Markets' and TMC GC's reputation can be caused by a stallholder discussing with other stallholders and customers any perceived grievances they may have. Any issues or concerns should be immediately brought to the attention of Market Management.

Again, should this behaviour be notified to Market Management it may lead to withdrawal of approval to attend TMC GC's Markets.

Stallholders must never criticise TMC GC, or a fellow trader, either to the public or other Stallholders. Stallholders must never comment negatively to customers or other Stallholders about the produce or products being sold or displayed by other Stallholders. Again, any disputes must be brought to the attention of market management or staff.

36. Waiting Lists

When all available sites for vendors in the same class, or those preferred by TMC GC have been allocated, applicants in these classes wishing to participate in a Market Day will be placed on a waiting list. Those on the waiting list will be invited to attend a Market Day as soon as a site becomes available. However TMC GC makes no warranties or representations about how long it will take, if at all, for a producer to secure a site at a Market Day. TMC GC reserves the right to prioritise Stallholders on the waiting list in any way it deems fit.

37. Weather - Extreme heat

Given that our summer temperatures are likely to increase as the climate changes and with summers also lengthening, all stallholders and staff must take particular care during very hot days and nights. Please ensure hats, protective clothing and drinking water are always available and, if necessary, bring a fan for personal cooling.

If a Stallholder and/or staff or representatives have a pre-existing medical condition that could be exacerbated by the heat, it is the Stallholder's sole responsibility for ensuring that it is safe to attend and operate the stall at the Market.

38. Weather – Protection for customers

It has been proven that Stallholders who provide weather protection (an additional gazebo) at the front of their stall always acquire additional income during times of either very hot or very wet weather. When

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asked, customers say they much prefer to wait to be served under cover and will pick out those stallholders in preference to those not providing weather protection. And with climate change giving us more extremes of hot and wet weather the stallholders providing this additional protection will always do better than those who don't. It is strongly recommended that wherever possible all stallholders provide this additional weather protection.

39. Weather- Wet/ Windy/ Cyclonic

The Market is conducted in the open air and will operate in varying weather conditions. It is the responsibility of all stallholders to bring their own covers, weights to hold down equipment and other equipment for the purpose of protection against adverse weather conditions. Our Markets are promoted and advertised as operating "rain, hail or shine" so inclement weather is no excuse for your non-attendance or packing up and leaving the market early.

Should a Market be cancelled, because of cyclonic conditions, no credits or refunds are issued. Please do not apply for a stall unless you are prepared to take the risk on weather.

ACKNOWLEDGEMENT OF COUNTRY

The Market Co. GC respectfully acknowledges the traditional custodians and owners of the land on which our Markets are located in south-east Queensland and recognizes their continuing connection to land, waters and community. We pay our respects to them and their culture and to Elders both past, present and emerging. Always was, always will be.

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