

# Terms and Conditions

Please note: Terms with capital letters are defined in condition 19.

## 1. Your booking of Location

- a. As long as you comply with this Agreement, you and your Guests may use the floor space of the Location and any conveniences and normal furnishings in the Location during the Booking Period.
- b. You and your Guests may also use any electricity or water supplied to the Location for reasonable purposes in connection with the Event during the Booking Period. Cairns Regional Council does not guarantee the continuance or adequacy or quality of electricity or water supply for your purposes even if you have made them known to Cairns Regional Council.
- c. Your right and that of your Guests to use the Location is a licence only. You and your Guests do not have the right to exclude Cairns Regional Council from the Location, even during the Booking Period.
- d. You must use the Location only for the Event. You must not use the Location, or allow the Location to be used, for any other purpose during the Booking Period.
- e. You must not use or employ any personnel at the Location, whether on a volunteer or paid basis, other than with prior approval from Cairns Regional Council.
- f. If the law obliges you to obtain a licence or permit to use the Location or for anything you or your Guests do at the Location, you must obtain and comply with the licence or permit.
- g. Cairns Regional Council agrees to use reasonable endeavours to supply requirements for catering (if this Agreement is for a Catered Event) and Additional Services that you request Cairns Regional Council to supply (if Cairns Regional Council agrees to supply the requested Additional Services).

## 2. Set-up of Location

- a. By prior agreement with Cairns Regional Council, you may be given access to the Location before the start of the Booking Period to get the Location ready for use during the Booking Period under this Agreement. In that event:
  - i. you and your Guests will have a licence to come onto the Location during the time or times agreed by Cairns Regional Council but only for the purpose of getting the Location ready for use during the Booking Period under this Agreement;
  - ii. Cairns Regional Council may revoke that licence at any time; and
  - iii. the conditions of this Agreement apply (with any necessary modifications) while you or your Guests are on the Location for the purpose of getting the Location ready for use during the Booking Period under this Agreement.

## 3. Things you must do to keep the booking

- a. The following table sets out things you must do in order to keep the booking of the Location, and when you must do them.

<i>What you need to do</i>	<i>When</i>
Sign and return this Agreement to Cairns Regional Council	The Event Prepayment Due Date is specified in the Agreement Details
Pay the Event Prepayment	The Event Prepayment Due Date specified in the Agreement Details
Give Cairns Regional Council the Event Information	The Event Information Due Date specified in the Agreement Details
Give Cairns Regional Council evidence of insurance in accordance with clause 14	The Event Information Due Date specified in the Agreement Details
Pay the Catering Prepayment as directed by Cairns Regional Council	The Catering Prepayment Due Date specified in the Agreement Details
Pay the Fees & Charges or Cairns Regional Council 's estimate of the Fees & Charges	The Fees & Charges Due Date specified in the Agreement Details
Pay for the Additional Services in the amount agreed between you and Cairns Regional Council or otherwise determined by Cairns Regional Council	The Fees & Charges Due Date specified in the Agreement Details or other date as agreed in writing.
Pay the Catering Fee as directed by Cairns Regional Council	The Catering Fee Due Date specified in the Agreement Details
Submit any advertising for the Event for approval by Cairns Regional Council	7 days prior to its intended placement
Comply with all of these Terms and Conditions	At all times

- b. If you fail to do any of the specified matters on time, Cairns Regional Council may
  - I. cancel this Agreement; and
  - II. decline to make the Location available to you whether or not Cairns Regional Council has cancelled this Agreement.
- c. You are not entitled to a refund of the Fees & Charges or any other amount paid or payable under this Agreement, even if you do not use the Location or any services to which the Fees & Charges or other amount relate, except as expressly provided by the conditions of this Agreement.

## 4. Catering

- a. This Clause applies if the Event is Catered Event.
- b. The Caterer is the exclusive caterer for the Venue.
- c. You must not, and you must ensure that your Guests do not:
  - i. supply your Guests with any wine, spirits, alcoholic or non-alcoholic drinks, refreshments, food, confectionery or other articles or services (excluding programs and Event merchandise) at or from the Venue other than as supplied by the Caterer; or
  - ii. bring any such items into the Venue.
- d. You must confirm to Cairns Regional Council by the Event Requirements Due Date specified in the Agreement Details:
  - i. the final number of persons to be catered for;
  - ii. menu selections; and

- iii. details of any special dietary requirements for those persons.
- e. Unless otherwise agreed to by Cairns Regional Council you must pay the full amount of the Catering Fee even if:
  - i. you do not use some or all of the catering ordered for any reason (including but not exclusively, if this Agreement is cancelled, or the Event does not proceed, or fewer than the anticipated number of Guests attend); or
  - ii. the amount charged is greater than the amount estimated by the Caterer or Cairns Regional Council.
- f. The Venue is a licensed venue under the *Liquor Act 1992* ("the Act") and must comply with the terms of the Act and the liquor licence. In particular (but not exclusively):
  - i. the Caterer applies the principles of responsible service of alcohol and reserves the right to refuse service to any person including unduly intoxicated patrons, disorderly patrons and minors;
  - ii. you will not have any rights against Cairns Regional Council or the Caterer arising out of the Caterer's application of the principles of responsible service of alcohol including but not exclusively in relation to any service, or refusal of service, or for requiring any of your Guests to leave the Venue; and
  - iii. the Caterer will only supply liquor in accordance with the terms of its liquor licence and in particular will not supply liquor outside the authorised trading hours for the Venue.
- vii. obstruct or restrict access to any designated exit (whether directly or indirectly); or
- viii. disobey any reasonable directions or requirements of Cairns Regional Council regarding noise levels (even if they are stricter than the legal or regulatory restrictions).
- c. The Location may not be used for dancing without the approval of Cairns Regional Council, which approval shall not be unreasonably refused. In the event dancing is approved, you must prepare the floor of the Location first. Before preparing the floor, you must obtain Cairns Regional Council's approval of the materials to be used for that purpose.

## 6. Event Information

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- a. You must promptly inform Cairns Regional Council of any change to the Event Information provided to Cairns Regional Council including, but not limited to, changes to any artist or any item or work to be performed. Where such a change occurs you must undertake such further publicity at your own expense as Cairns Regional Council may require. Alternatively Cairns Regional Council may elect to undertake such publicity in which case you must pay Cairns Regional Council's costs and expenses incurred in doing so.
- b. You must advise Cairns Regional Council immediately if the Event will or is likely to contain adult content or themes, nudity, coarse language and/or special effects including but not limited to haze, smoke and strobe lighting.

## 5. Looking after the Location

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- a. You must keep the Location in a clean and tidy condition at all times.
- b. You must ensure that you and your Guests do not do any of the following things:
  - i. use any sound, lighting, electrical or other equipment or devices (other than those supplied by Cairns Regional Council) without the consent of Cairns Regional Council. You must ensure that any such equipment complies with any relevant Australian Standards and is used only in accordance with any manufacturers' directions;
  - ii. bring any scenery, curtains, props or flammable material of any kind to the Venue unless:
    - 1. they have been fireproofed to the standard required by Queensland laws, and are maintained by you in that fireproofed condition so long as they remain at the Venue; or
    - 2. you have sought and been granted the written consent of Cairns Regional Council, which consent may be granted or refused in the sole discretion of Cairns Regional Council;
  - iii. do anything to overload any electricity supply to the Location;
  - iv. damage, remove or interfere with any part of the Location or the Venue or any conveniences, appurtenances, fixtures, fittings, equipment or other things in or on the Location or the Venue;
  - v. damage, block or remove any sinks, drains, toilets or similar equipment;
  - vi. use any conveniences, appurtenances, fixtures, fittings, equipment or other things in or on the Location or the Venue other than for purposes for which they were designed and in a usual and careful manner;

## 7. Ticket sales

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- a. Unless otherwise expressly authorised by Cairns Regional Council :
  - i. the sale, printing and distribution of tickets to the Event will be conducted either by, or under the supervision and control of, Cairns Regional Council, (at the election of Cairns Regional Council); and
  - ii. the receipts derived from the sale of all tickets will be paid directly to Cairns Regional Council .
- b. If Cairns Regional Council has authorised you to conduct the sale, printing and/or distribution of tickets to the Event, then one week prior to the Event you must advise Cairns Regional Council in writing of the number of tickets sold and the seat locations to which those tickets pertain.
- c. Cairns Regional Council will retain in trust the receipts derived from the sale of all tickets until the later of the following times:
  - i. the conclusion of the Event, or the conclusion of a single performance within the Event to which the receipts pertain (whichever occurs first), to ensure funds are available for any customer refunds required pursuant to the terms and conditions of sale; and
  - ii. you have paid all sums owing Cairns Regional Council whether under this Agreement or otherwise.
- d. You authorise Cairns Regional Council to deduct any amount payable by you to Cairns Regional Council whether under this Agreement or otherwise from the amounts collected by Cairns Regional Council and which would otherwise be payable by Cairns Regional Council to you.

- e. Unless otherwise agreed by Cairns Regional Council, you must withhold the House Seats specified in the Agreement Details from sale and reserve them for the use of Cairns Regional Council.

## 8. Broadcasting and publication

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- a. If during the Booking Period you or any of your Guests display, perform, broadcast, adapt, publish or in any way use any works or material in which intellectual property rights subsist (including but not limited to copyright and moral rights):
  - i. you must ensure that the intellectual property rights are not infringed;
  - ii. you must give Cairns Regional Council evidence satisfactory to Cairns Regional Council that you have the right to use the works or material in the manner in which you intend; and
  - iii. you must pay all royalties due to the Australasian Performing Right Association or any other body in respect of the use of the works or material.

## 9. Advertising and merchandise

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- a. You must not sell or permit to be sold any programme or merchandise relating to the Event, or conduct any advertising for the Event, without the consent of Cairns Regional Council, which consent may be granted or refused at the sole discretion of Cairns Regional Council.
- b. You must not display any advertising material in the Venue or surrounds without the consent of Cairns Regional Council, which consent may be granted or refused at the sole discretion of Cairns Regional Council.

## 10. Other users of the Venue

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- a. Cairns Regional Council may ask you to use and ensure your Guests use a particular means of access to the Location through the Venue (for example, to coordinate the use of the Venue by multiple groups). In that event, you and your Guests must use the means of access specified by Cairns Regional Council .
- b. You and your Guests must not do any of the following things:
  - i. disrupt the use of the Venue by anyone else;
  - ii. prevent other people from, or interfere with other people, accessing or using any common areas or other locations in the Venue; or
  - iii. prevent Cairns Regional Council or anyone authorised by Cairns Regional Council from entering the Location for reasonable purposes during the Booking Period.

## 11. Safety and security

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- a. You must take reasonable steps to ensure the safety of your Guests at the Location, and the security of valuables and belongings brought onto the Location by your Guests, during the Booking Period.
- b. Smoking is not permitted in the Location. You must ensure that neither you nor your Guests smoke in or in the vicinity of the Location.
- c. You must comply, and ensure that your Guests comply, with:

- i. Cairns Regional Council 's requirements and directions regarding safety and security, including but not limited to the terms of Cairns Regional Council 's emergency and evacuation plan; and
- ii. directions given by officers of the police, fire brigade, ambulance service or security services.

- d. You must immediately notify Cairns Regional Council of any death or injury of any person in the Venue during the Booking Period upon becoming aware of such death or injury.
- e. You must not, and you must ensure that your Guests do not do any of the following things:
  - i. enter any office, kitchen, storage, backstage or operational areas of the Venue which are not within the Location;
  - ii. breach any law;
  - iii. do any act, make any omission or engage in any conduct that prejudices any insurance held by Cairns Regional Council for the Location or the Venue;
  - iv. do any act, make any omission or engage in any conduct that is or could reasonably be expected to become a public nuisance or a nuisance to Cairns Regional Council or the owner or occupier of any other premises in the vicinity of the Location or the Venue;
  - v. do any act, make any omission or engage in any conduct that could reasonably be expected to cause any licence or permit in respect of the Location or the Venue to be breached, forfeited or suspended or any renewal refused; or
  - vi. do any act, make any omission or engage in any conduct that will or could reasonably be expected to cause Cairns Regional Council to suffer any loss, damage or expense or be exposed to any liability.
- f. You must comply with, and ensure that your Guests comply with, any reasonable directions given by Cairns Regional Council about:
  - i. the number of people allowed to be on the Location;
  - ii. the use of the Location or the Venue;
  - iii. looking after the Location or the Venue; and
  - iv. the provision or completion of an incident report, and/or the provision of information required by Cairns Regional Council for the purposes of completing any such report.
- g. Cairns Regional Council reserves the right not to admit latecomers to the Event until there arises a suitable break in the Event, the timing of which will be determined in consultation with you.

## 12. End of Booking Period

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- a. You must vacate the Location by the end of the Booking Period.
- b. At the end of the Booking Period, you must:
  - i. leave the Location in a clean and tidy condition;
  - ii. pay for any damage to the Location, Venue or any facilities or equipment that happened during the Booking Period;
  - iii. remove everything that you or your Guests have brought into the Venue during the Booking Period or in connection with this Agreement;
  - iv. leave clean any conveniences, appurtenances, fixtures, fittings, equipment or other things in or on the Venue that have been used during the Booking Period, and put them back where they were at the start of the Booking Period; and

- v. otherwise, give the Location back to Cairns Regional Council in the same condition as the Location was in at the start of the Booking Period.
- c. You agree to reimburse Cairns Regional Council for any cleaning or other costs Cairns Regional Council incurs as a consequence of any breach by you of condition 12b above.

### 13. Liability

- a. You use the Location, and invite your Guests and other people to the Location, at your own risk.
- b. You agree that, except in the event of negligence by Cairns Regional Council, its servants or agents, Cairns Regional Council is not liable for, and you indemnify Cairns Regional Council against, any costs, expenses, action, demand, obligation, damage, penalty or other liability of any kind (whether suffered by or against you, Cairns Regional Council or someone else) arising directly or indirectly in respect of any of the following:
  - i. your acts, omissions and conduct;
  - ii. your use of, or presence at, the Location;
  - iii. any act, omission, conduct or occurrence for which you are responsible under this Agreement;
  - iv. a fault, defect, misuse or failure of any equipment, machinery, conveniences, appurtenances, fittings, or other things brought by your or your Guests to the Venue;
  - v. a cancellation or postponement of the Event or part of the Event;
  - vi. strikes, power failures, water supply failures, acts of God, acts of terrorism, and acts of war; or
  - vii. any loss of property or personal injury suffered by any of your Guests.
- c. You are responsible for the acts, omissions and conduct of your Guests as if they were your own acts, omissions and conduct.
- d. To the maximum extent permitted by law, if the goods or services supplied under this Agreement are subject to warranties or terms implied by statute, general law, international convention or custom:
  - i. that can be excluded, restricted or modified by contract – they are hereby excluded; and
  - ii. that cannot be excluded, restricted or modified by contract – the liability of Cairns Regional Council for breach of any such warranty or term will be limited at the option of Cairns Regional Council (as the case requires) to:
    1. in the case of goods, the supply of the goods again or payment of the cost of supplying the goods again; and
    2. in the case of services, the supply of the services again or payment of the cost of supplying the services again.
- e. To the maximum extent permitted by law, Cairns Regional Council's aggregate liability to you for any loss or damage, whether arising in contract, or as a consequence of negligence or in any other manner, will not exceed the total amount Cairns Regional Council has actually received from you under this Agreement.
- f. Cairns Regional Council will not be liable in any event (whether in contract, tort or otherwise) for any consequential, indirect, incidental, special, punitive or exemplary damages, including without limitation any loss of profits or loss or corruption of data or loss of anticipated savings, loss of goodwill or economic

loss, even if Cairns Regional Council has been advised of the possibility of such loss or damage.

- g. This Agreement will be interpreted and construed and the rights of the parties will be determined in accordance with the law of the State of Queensland and in and by the Courts of Queensland.

### 14. Insurance

- a. You must effect and hold public liability insurance indemnifying you and Cairns Regional Council :
  - i. for any legal liability with respect to personal injury or property damage arising directly or indirectly from the use of the Venue by you and/or your Guests; and
  - ii. for not less than the Public Liability Insurance Amount per occurrence during the Booking Period (or while you or your Guests are at the Venue, if outside the Booking Period).
- b. You must also effect and hold any workers' compensation insurance required by law for any person employed or engaged or to be employed or engaged by you during the Booking Period and the period of any licence for getting the Location ready for use during the Booking Period under this Agreement (see condition 2).
- c. You must also effect and hold insurance covering you for loss or damage to any property which you bring into the Venue.
- d. The insurances required by conditions 14a., 14b. and 14c. above must be on terms satisfactory to Cairns Regional Council .
- e. You must give Cairns Regional Council evidence satisfactory to Cairns Regional Council that you hold the insurances required by conditions 14a., 14b. and 14c. above:
  - i. by the Event Information Due Date specified in the Agreement Details; and
  - ii. at any other time Cairns Regional Council asks.
- f. If you do not give Cairns Regional Council evidence satisfactory to Cairns Regional Council that you hold the insurances required by conditions 14a., 14b. and 14c. above by the Event Information Due Date specified in the Agreement Details Cairns Regional Council may but is not obliged to arrange such insurances at your expense. In that case you must cooperate with Cairns Regional Council by completing any required proposal forms and paying any prescribed premiums on request by Cairns Regional Council.

### 15. Cancellation of this Agreement

- a. You cannot cancel this Agreement once you have signed it. If you do not hold the Event or do not use the Location for any or all of the Booking Period, you must still make the payments that this Agreement requires you to make.
- b. The following table explains when Cairns Regional Council may cancel this Agreement and the consequences of cancellation.

<i>How this Agreement may be cancelled</i>	<i>Consequences of cancellation</i>
By Cairns Regional Council giving notice before the Event Information Deadline.	You are entitled to a refund of any money you have paid as a Deposit or for Fees & Charges under this Agreement, but you do not have any other claim against Cairns Regional Council,

<i>How this Agreement may be cancelled</i>	<i>Consequences of cancellation</i>
	including in its capacity as Caterer if acting in such capacity.
Owner giving notice, even after the Event Information Deadline or during the Booking Period, due to any of the following: <ul style="list-style-type: none"> <li>the Location or Venue being resumed, requisitioned or required for a public purpose;</li> <li>the Location or Venue being damaged or destroyed so that Cairns Regional Council considers the Location or Venue unsuitable for use under this Agreement; or</li> <li>an emergency, danger of damage to people or property or other act or event outside Cairns Regional Council 's direct control as a result of which Cairns Regional Council considers the Location or Venue should not be used under this Agreement.</li> </ul>	You are entitled to a refund of any money you have paid as a Deposit or for Fees & Charges under this Agreement, but you do not have any other claim against Cairns Regional Council, including in its capacity as Caterer if acting in such capacity.
By Cairns Regional Council giving notice, even after the Event Information Deadline or during the Booking Period, due to a breach by you or your Guests of any of the Terms or Conditions of this Agreement.	You are not entitled to a refund of any money. You must still pay the Deposit, Fees & Charges, Catering Fee, any fee due for Additional Services, and any other sum that has become owing under this Agreement at the time of your breach, in full.

facsimile or email in accordance with the Agreement Details; and

- ii. to Cairns Regional Council if addressed to Cairns Regional Council or Cairns Regional Council 's Authorised Agent and served personally on Cairns Regional Council or Cairns Regional Council 's Authorised Agent or if forwarded by prepaid post or facsimile or email in accordance with the Agreement Details.

## 18. Privacy

- a. Cairns Regional Council may collect your personal information so that we can administer your request to book the Location at the Venue for your event. We will not disclose your personal information to any other person unless we are required to by law or you have given your consent.
- b. By completing and signing this form and returning it to Cairns Regional Council, you give us your consent to manage your personal information in the manner described in Cairns Regional Council 's Privacy Statement and in this Agreement.
- c. Cairns Regional Council respects the privacy of all customer and business contacts and is committed to compliance with the Information Privacy Principles (IPPs) in the Information Privacy Act 2009 (QLD).
- d. When collecting personal information from third parties Cairns Regional Council will provide the third parties with the choice to opt-in to having their personal information shared with you.
- e. Cairns Regional Council will only provide a third party's personal information to you if the third party has consented to the data being shared, and on condition that you undertake to comply with the IPPs. In that case:
  - i. the third party's personal information may only be used for the purpose for which the personal information was disclosed to you by Cairns Regional Council , and for which the third party has provided their consent;
  - ii. you will not disclose the personal information to anyone unless Cairns Regional Council has provided express consent for such disclosure to occur;
  - iii. Cairns Regional Council will only provide such consent when the third party has provided such consent to Cairns Regional Council ; and
  - iv. you will include a prominent opt-out option on any promotional material sent to third parties obtained through personal information provided by Cairns Regional Council . This applies to promotional material in any form, or any other material, whether through traditional print media or through electronic communication, or through any other means.

## 16. Non-continuous Booking Period

- a. If the Booking Period is or includes two or more non-continuous periods, this Agreement applies separately in relation to each of those periods as if they were separate Booking Periods. This means, for example, that condition 12 applies at the end of the each of those periods (not just the last one).

## 17. Agency

- a. For the purpose of this Agreement any action, approval, consent or discretion required to be taken or given by or on behalf of Cairns Regional Council will be sufficiently taken or given if taken or given by Cairns Regional Council's Authorised Agent.
- b. For the purpose of this Agreement any action, approval, consent or discretion required to be taken or given by or on your behalf will be sufficiently taken or given if taken or given by the Customer's Authorised Agent.
- c. Without prejudice to any other means of giving notice any notice given under this Agreement shall be sufficiently given:
  - i. to you if addressed to you or the Customer's Authorised Agent and served personally on you or the Customer's Authorised Agent or if forwarded by prepaid post or

## 19. Definitions

- a. Additional Services means goods or services provided by Cairns Regional Council to the Customer and/or used by the Customer for which no fee, charge or method of calculation of a fee or charge is set out in Cairns Regional Council 's Schedule of Fees and Charges as in effect from time to time.
- b. Agreement means the Agreement Details and the Terms and Conditions.
- c. Agreement Details means the details set out under the heading Agreement Details in this Agreement.

- d. Booking Period means the booking period specified in the Agreement Details.
- e. Caterer means the person or entity appointed or approved by Cairns Regional Council to provide catering services at the Venue (or if there is no such person or entity, means Cairns Regional Council itself) and also includes any person who holds a liquor licence for the Venue (which may be Cairns Regional Council itself).
- f. Catered Event means an Event at which you intend for you or your Guests to:
  - i. supply or be supplied with wine, spirits, alcoholic or non-alcoholic drinks, refreshments, food, confectionery or other articles or services (excluding programs and Event merchandise) at or from the Venue; and/ or
  - ii. bring any such items into the Venue.
- g. Catering Fee means:
  - i. the sum charged by the Caterer to you or to Cairns Regional Council for the for the supply of all catering goods and services ordered by you or provided to you for the Event; less
  - ii. the Catering Prepayment you have paid.
- h. Catering Prepayment means the greater of the following:
  - i. the Catering Fee;
  - ii. the Caterer's estimate of the Catering Fee; or
  - iii. Cairns Regional Council's estimate of the Catering Fee.
- i. Catering Requirements means confirmation of the number of serves and type of catering required.
- j. Customer means the customer specified in the Agreement Details.
- k. Customer's Authorised Agent means the customer's authorised agent specified in the Agreement Details.
- l. Event Information means the information sought in any questionnaire, form or other request by Cairns Regional Council requesting details of the Event including but not limited to the setup, catering and ticketing requirements for the Event.
- m. Event Prepayment means the amount shown in the Agreement Details if it is indicated there that an Event Prepayment is payable. (Any Event Prepayment paid is credited against the final account.)
- n. Event means the event specified in the Agreement Details.
- o. Fees & Charges means the aggregate of the amounts chargeable under the Schedule of Fees and Charges as in effect from time to time, for the hire or use of the Location and the other services and facilities that you or your Guests use or which are provided at your or your Guests' request. A copy of the current Schedule of Fees and Charges is attached to this Agreement for guidance purposes only.
- p. Guests means Event ticketholders, Event attendees, your members, officials, staff, volunteers, contractors, guests, invitees, visitors and other persons you allow or invite into the Location whether expressly or impliedly.
- q. Location means the part of the Venue specified in the Agreement Details.
- r. Cairns Regional Council's Authorised Agent means the Cairns Regional Council's Authorised Agent specified in the Agreement Details.
- s. Public Liability Insurance Amount means the public liability insurance amount specified in the Agreement Details.
- t. Venue means the Cairns Regional Council facility or premises specified in the Agreement Details.
- u. we/us means Cairns Regional Council .
- v. you/your means the Customer.