

**Watergardens Shopping Centre
National Busking Program
Terms and Conditions**

Participation in the National Busking Program

1. By participating in the National Busking Program, the Participant agrees to these Terms and Conditions.
2. To participate in the National Busking Program, the Participant must be an Eligible Person who submits an Eligible Entry during the National Busking Program Period.
3. Eligible Persons may enter the submit an Application Form for the National Busking Program during the National Busking Program Period.
4. To be considered for selection to busk at the Centre, the Eligible Person must during the National Busking Program Period:
 - (a) submit an information form which contains the Eligible Person's full name, age, address, telephone number and email address using the link on the Centre Website; and
 - (b) provide a link to an audio-visual recording of a performance uploaded to Youtube by that Eligible Person which must be emailed to the Centre using the link on the Centre Website, which must not:
 - a. be unlawful or promote any unlawful activity;
 - b. be considered dangerous, defamatory, abusive, discriminatory, offensive, obscene, threatening, misleading or hateful;
 - c. be intended to harass another person or group of people;
 - d. include personal information (including photographs or images) of another person or persons, unless the Participant has that person's express consent;
 - e. infringe the Intellectual Property Rights of any person;
 - f. contain viruses or corrupted files or otherwise be intended to interfere with the operation of the Centre Website;
 - g. breach any Youtube Terms; and
 - (c) if the Eligible Person or any other person appearing in the audio-visual recording is under the age of 18 years, have the consent of the parent or guardian of each person in the audio-visual recording who is under the age of 18 years to enter the National Busking Program and, if selected, Perform at the Centre.
5. If any person uploads offensive or inappropriate Material (including Material which does not comply with the requirements of clause 4), any entry to the National Busking Program by that person shall be invalid

Eligibility

6. The National Busking Program is only open to Eligible Persons.
7. The Promoter reserves the right, at any time, to verify the eligibility of any Participant (including a Participant's identity, age and place of residence) and to disqualify any Participant who does not comply strictly with these

Terms and Conditions or who tampers with the entry process. Incomplete, indecipherable or illegible entries, or entries without a viewable audio-visual recording of a performance, will be deemed invalid. If requested by the Promoter, a Participant must provide the Promoter with evidence of eligibility. Failure by the promoter to enforce any of its rights at any stage does not constitute a waiver of those rights.

Selection of the Buskers

8. Each Eligible Entry by an Eligible Person received during the National Busking Program Period will be considered by the Promoter. It will be at the Promoter's discretion whether to accept and consider an Eligible Entry which is received outside of the National Busking Program Period.
9. The selection of the Buskers will be at the Promoter's discretion, and the Promoter will select the Buskers progressively during the National Busking Program Period. The Promoter intends to select the first Buskers to Perform at the Centre at a date and time at the Promoter's discretion.
10. The Promoter will use reasonable efforts to notify each Busker by email or telephone at least 7 days prior to the Nominated Time that he or she has been selected to busk at the Centre and the Nominated Time for the Performance.
11. If an Eligible Person is selected to be a Busker, that Eligible Person must be willing and available to attend the Centre and Perform at the Nominated Time, and must confirm this to the Promoter in writing within 24 hours after that Busker is notified. If a Busker does not do so, the Promoter may select another Busker at its discretion.
12. The Promoter's decision as to the selection of the Buskers is final and binding and no correspondence will be entered into in relation to the conduct of the selection process, the conduct of the National Busking Program or otherwise. The nature and number of Buskers who will be selected to busk at the Centre during the National Busking Program Period will be at the Promoter's discretion.

Busking at the Centre – Applicable Terms and Conditions

13. Each Busker must attend the Nominated Location and give the Approved Performance at the Nominated Time. If a Busker fails to attend the Nominated Location at the Nominated Time, the Promoter may (at its discretion) replace the Busker and the Busker may not be given another opportunity to Perform at the Centre.
14. Each Busker acknowledges and agrees as follows:
 - (a) each Busker must sign the Release Deed Poll prior to Performing at the Centre. The Promoter may refuse to allow a Busker to Perform if the Release Deed Poll is not signed by the Busker;
 - (b) the Busker must only give the Approved Performance at the Centre, at the Nominated Time and in the Nominated Location;
 - (c) the Promoter may change the Nominated Time or the Nominated Location, cancel the Performance or change the duration of the Performance at any time for

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any reason. A Participant will have no claim against the Promoter if it does so;

- (d) the Promoter consents to the Busker placing an instrument case, hat or container immediately in front of the Busker during the Performance for the collection of unsolicited donations, but the Busker must not harass customers of the Centre or solicit donations from customers;
- (e) the Busker may keep any unsolicited donations given to the Busker by customers of the Centre during the Nominated Time but will not otherwise receive any payment or compensation from the Promoter or any other person in relation to the Performance. The Busker is solely responsible for the collection and retention of the unsolicited donations. The Centre will not be held accountable for any theft or loss that may occur;
- (f) the Busker must bring all instruments, guitar stands, music stands, props and other equipment required for the Performance. The Promoter will not provide any equipment for the Busker's use. All equipment the Busker proposes to use in the Performance must be approved by the Promoter before it is brought into the Centre;
- (g) no power supply will be made available to the Busker at the Nominated Location;
- (h) the Busker may not use any form of sound amplification equipment, and must not exceed the sound levels nominated by the Promoter;
- (i) the Promoter may require the Busker to cease the Performance and immediately leave the Centre at any time for any reason, including (but not limited to) if the Promoter considers that any part of the Performance is not consistent with the Approved Performance or is dangerous, defamatory, abusive, discriminatory, offensive, obscene, threatening, misleading or hateful;
- (j) the Busker warrants that it has all necessary consents and licences required from any person or authority to give the Performance, and that the Performance will not infringe the Intellectual Property Rights of any person;
- (k) each Busker must comply with the terms and conditions for entry to the Centre (a copy of which is available from the Promoter on request) and with the Promoter's directions, requirements and instructions in relation to the Performance;
- (l) the Promoter strongly recommends that each Busker obtains their own public liability insurance policy in relation to their Performance;
- (m) any tax, liability or duty arising from a Busker's participation in the National Busking Program or Performance (including, but not limited to, in relation to any donations received by a Busker) is the sole responsibility of that Busker; and
- (n) the Promoter may ask a Busker to Perform at the Centre more than once during the National Busking Program Period, but will have no obligation to do so; and
- (o) the Busker must provide a COVIDSafe Plan to the Centre prior to their Performance, complete a COVID

Declaration upon signing in with the Centre prior to their Performance and comply with any directives of an Authority (any State, Territory, local government or other authority including health authority).

Other General Terms

- 15. The Promoter may, but is not obliged to, publish the results of the National Busking Program. By participating in the National Busking Program, the Participant gives their consent for their personal details to be published in the manner prescribed in this clause. If the Promoter decides to publish the results of the National Busking Program, then the Promoter will publish the results on the Centre Website
- 16. All audio-visual or photographic recordings made of the Performances at the Centre are the property of the Promoter.
- 17. Each Participant:
 - (a) presently assigns to the Promoter all Intellectual Property Rights in or for the Materials and all existing and future materials created (whether alone or jointly with the Promoter) by the Participant in relation to the Materials;
 - (b) warrants that the Participant has the right to make this assignment and that the Promoter's use of the Materials will not infringe any Intellectual Property Rights of any third party; and
 - (c) voluntarily, irrevocably and unconditionally consents to the Promoter, or persons authorised by the Promoter, doing or omitting to do, with respect to the Materials, any act which would otherwise infringe the Participant's Moral Rights in the Materials.
- 18. Each Busker consents to the Promoter using their name, likeness, image and voice (including, but not limited to, audio, visual, audio-visual or photographic recordings of the Busker or the Performance) for an unlimited period and without remuneration for marketing and publicity use, if requested by the Promoter.
- 19. The Promoter Entities shall not be liable (including, without limitation, in negligence) for:
 - (a) any loss or damage whatsoever that is suffered (including, but not limited to, indirect or consequential loss); or
 - (b) any personal injury suffered or sustained, during the course of participating in this National Busking Program, attending the Event or giving the Performance, except for and to the extent that any liability cannot be excluded by law.
- 20. Each Participant indemnifies and keeps indemnified the Promoter Entities against all claims, losses, damages, costs and expenses suffered or incurred by the Promoter Entities or any third parties arising out of the breach of these Terms and Conditions by the Participant, the conduct of the Participant in the National Busking Program and any Performance by the Participant.
- 21. If this National Busking Program is interfered with in any way or is not capable of being conducted as reasonably anticipated due to any reason beyond the reasonable control of the Promoter, the Promoter reserves the right, in its sole discretion, to the fullest extent permitted by law

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and subject to any written directions from a regulatory authority (if any) to:

- (a) disqualify any Participant; and/or
- (b) modify, suspend, terminate or cancel the National Busking Program as appropriate.

22. The National Busking Program is not sponsored, endorsed, administered by, or associated with, Youtube. The Participant agrees that Youtube will not be responsible for any claims, losses, damages, costs and expenses of any kind associated with this National Busking Program and releases Youtube to the full extent permitted by law.

23. Any information provided by the Participant in this National Busking Program is being provided to the Promoter and not to Youtube.

Privacy

24. Under the Privacy Act 1998 (Cth), the Promoter must notify Participants of certain matters when it collects personal information about them including how it plans to use or disclose it. If a Participant chooses to enter or take part in the National Busking Program, the Participant will be required to provide the Promoter with personal information about themselves such as the Participant's name, age, address, phone number and email address.

25. The Promoter will collect, use and disclose the personal information which the Participant has provided for the following purposes:

- (a) carrying out the National Busking Program and the Event (including as described in clause 15 in particular and in general for notification of selection of Buskers and for advertising the busking program at the Centre);
- (b) carrying out marketing and promotions activities including, without limitation, sending newsletters or publications and/or other marketing and promotional material to the Participant about future National Busking Program or promotional events (which may be undertaken by the Promoter or any other person or organisation to which the Promoter discloses the personal information (including contractors) for the purposes of assisting the Promoter to do this; and
- (c) in any media for an unlimited period of time without remuneration to the Participant for the purposes of promotion and marketing as determined by the Promoter.

26. By entering the National Busking Program, the Participant consents to the collection, use and disclosure of his or her personal information in the manner outlined in these Terms and Conditions.

27. If a Participant would prefer that the Promoter does not use or disclose the Participant's personal information in the way outlined in these Terms and Conditions and/or retain their personal information for the purposes described herein, the Participant should contact the Promoter on (03) 9361 5511 or marketing@watergardens.com.au.

28. A Participant has the right to access, in most circumstances, personal information which the Promoter holds about the Participant. A Participant may contact the Promoter on (03) 9361 5511 or marketing@watergardens.com.au to ask for access to the Participant's personal information, or if the Participant has a complaint concerning a Participant's information privacy.

29. The Promoter's Privacy Policy contains further information on its processes in relation to access to and correction of personal information, about how a Participant may complain about a breach of the Australian Privacy Principles and how the Promoter will deal with such a complaint. The Promoter's Privacy Policy is available at <https://www.qicgre.com/privacy-policy>.

30. If a Participant considers that any personal information that the Promoter holds about the Participant is inaccurate or if at any time the Participant's details change, the Participant may contact the Promoter on (03) 9361 5511 or marketing@watergardens.com.au and the Promoter will take reasonable steps to ensure that such personal information is corrected. The Promoter will take reasonable steps to keep personal information secure from misuse, interference, loss or unauthorised access, modification or disclosure.

Definitions

"Approved Performance" means a performance of a standard and nature consistent with the performance in the audio-visual recording submitted by the Busker with its Eligible Entry, as approved by the Promoter, and which must not:

- (a) be unlawful or promote any unlawful activity;
- (b) be considered dangerous, defamatory, abusive, discriminatory, offensive, obscene, threatening, misleading or hateful;
- (c) be intended to harass another person or group of people;
- (d) include personal information (including photographs or images) of another person or persons, unless the Participant has that person's express consent; or
- (e) infringe the Intellectual Property Rights of any person.

"Busker" means an Eligible Person who is selected by the Promoter to Perform (busk) at the Centre during the National Busking Program Period.

"Centre" means Watergardens Shopping Centre, 399 Melton Highway, Taylors Lakes, VIC, Australia.

"Centre Website" means <https://watergardens.qicgre.com/>.

"National Busking Program" means the opportunity to be selected to Perform (busk) at the Centre in accordance with these Terms and Conditions.

"National Busking Program Period" means the period of time on an approved date and time as nominated by the Promoter in its absolute discretion.

"Deed Poll" means a deed poll in the form prepared by the Promoter in relation to the Performance pursuant to which

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the Busker releases the Promoter from liability in relation to the Performance (among other things), a copy of which will be provided by the Promoter to the Busker prior to the Performance.

“Eligible Entry” means an entry which complies with the requirements of clause 4.

“Eligible Person” means an individual who:

- (a) is a resident of Victoria;
- (b) if under 18 years of age, has a parent or guardian’s permission to participate in the National Busking Program and to Perform at the Centre;
- (c) is not a Non Eligible Person; and
- (d) submits an Eligible Entry.

“Intellectual Property Rights” means all intellectual property rights, including copyright and any right to keep confidential information confidential.

“Materials” means any comments, pictures, videos, electronic files, audio, visual or audio-visual materials provided by the Participant pursuant to the National Busking Program (including the audio-visual file which forms part of the Participant’s Eligible Entry), and the Performance (including any photographic, audio, visual or audio-visual recordings of the Performance).

“Moral Rights” means the rights under the Copyright Act 1968 of integrity of authorship, attribution of authorship, and the right not to have authorship of a work falsely attributed.

“Nominated Location” means that location in the entertainment and leisure precinct in the Centre for the Busker’s Performance.

“Nominated Time” means at an approved date and time, as nominated by the Promoter.

“Non-Eligible Person” means the following:

- (a) owners and managers of the Centre;
- (b) retailers of the Centre;
- (c) suppliers, associated companies and agencies of the Centre;
- (d) the employees or contractors of the persons and entities in paragraphs (a) – (c); and
- (e) any spouse, child, de facto or any other person living at the same premises as any of the persons mentioned in paragraphs (a) – (d).

“Participant” means any person who participates in the National Busking Program.

“Performance” means the Busker’s performance at the Centre as part of the busking program associated with this National Busking Program, which must be an Approved Performance, and **“Perform”** has a corresponding meaning.

“Promoter” means the owner of the Centre, Watergardens Pty Ltd (ACN 066 225 205) as trustee for the Watergardens Trust (ABN 77 988 181 838) of Level 5, 66 Eagle Street, Brisbane Qld 4000.

“Promoter Entities” means the Promoter, all associated companies, advisors and agencies and all those entities’ personnel.

“Youtube” means Youtube and Google Inc or its affiliates.

“Youtube Terms” means any terms of use, code of conduct or other policy or guideline published from time to time by Youtube, including the Youtube Terms of Service, the Community Guidelines and the Collecting Society Notices.