



## **Terms & Conditions**

### **1. Introduction**

Perennial Dynamics Pty Ltd (ABN 67 140 016 191), trading as CitySwagga, and Our subsidiaries and affiliates ("CitySwagga" or "We" or "Us" or "Our") provide the information contained on this website (being [www.CitySwagga.com.au](http://www.CitySwagga.com.au)) or any of the pages comprising the website ("Website") to Our members ("Members", "You" or "Your") subject to the terms and conditions set out in these Website Use & Membership Terms and Conditions, the Privacy Policy and any other relevant terms and conditions, policies and notices which may be applicable to a specific section or part of this Website.

### **2. CitySwagga.com.au Membership**

You must be 18 years or older to use this Website and to be a Member of the Website. You will be required to enter Your date of birth when registering for membership. If CitySwagga becomes aware that You are less than 18 years of age, We reserve the right to terminate Your membership immediately and without prior notice.

By being a Member of the Website, You agree:

- **2.1** to provide Your full name (which will also be Your Member ID), Profile picture (if any), date of birth, email address, and Your music genre preferences;
- **2.2** Your name (Member ID) and Profile picture will always be publicly available;
- **2.3** not to provide any false personal information on the Website, or create an account for anyone other than Yourself without permission;
- **2.4** to take all steps to maintain the confidentiality of Your account login information;
- **2.5** to receive information, feeds, correspondence, promotions and invitations from CitySwagga and/or Venues regarding forthcoming Events that are, directly or indirectly, associated with the "music genre preferences" indicated by You in Your Member Profile. Such information will be sent to Your Account Inbox. This will occur after You have tagged the Venue and/or Event as a "favourite" in your Member Profile or by informing the Venue(s) of Your attendance at an Event. To unsubscribe from receiving this information, You will be required to remove the Venue(s) and/or Event(s) from Your "favourite" listing in Your Member Profile;
- **2.6** to photograph(s) of You being taken at Venue(s) and/or any Events you attend. You acknowledge and agree that these photographs may appear on the Website and may be viewed by other Members;
- **2.7** to other Members, CitySwagga and/or Venue(s) being notified of Your attendance at Venue(s) and/or Event(s), either through the use of Location Services; by You directly informing the Venue(s) of Your attendance at an Event(s); and/or CitySwagga being informed of Your attendance at Venue(s) and/or Event(s) anytime thereafter;
- **2.8** except as provided under paragraphs 2.6 and 2.7, that other Members will be able to see your Member Profile after You have nominated them as and/or agreed to them being your "friend" on the Website;
- **2.9** that Your Member ID and Profile picture will be publicly displayed on the Website if You become a "**Top Locals**" for a Venue (Your Member Profile details such as date of birth, email address and music genre preferences will not be displayed or made public);
- **2.10** if you win a competition which has been organised by CitySwagga or a Venue, Your Member ID and Profile picture will be publicly displayed on the Website (Your Member Profile details such as date of birth, email address and music genre preferences will not be displayed or made public). You must be over the age of 18 to enter any competition. Proof of Your age may be requested if You are a winner of a competition.
- **2.11** if You wish to stop using Your CitySwagga Account, You can delete Your CitySwagga Account through the "delete account" option within Your CitySwagga Account.
- **2.12** subject to our Privacy Policy, We may disclose Your personal information, and any information contained on the Website to the extent required pursuant to any law or order of any Court, governmental agency and/or regulatory body, if we believe that we are required to do so; and
- **2.13** any dealings between You and Venue(s) through the Website and/or Your mobile device, such as promotions, vouchers, competitions and/or loyalty participation programs and/or the redemption of any promotions, vouchers, competitions and/or loyalty programs and the terms, conditions, warranties or representations in relation to these dealings, are solely between You and the Venue(s) and You acknowledge and agree that CitySwagga is not responsible or liable for any loss, damage, cost or

expense of any kind incurred as a result of such dealings or as the result of the presence of the Event(s) and/or Venue(s) on the Website or Your attendance at any Event(s) and/or Venue(s).

### **3. Location Services**

By being a Member and enabling Location Services on your mobile device, You agree and consent to the transmission, collection, maintenance, processing and use of Your location data and location search queries by CitySwagga, Venues and third parties authorised by CitySwagga. All information collected by Us will be held subject to Our Privacy Policy and practices. Using Location Services will inform Us, Venues and other Members of your attendance at a Venue and/or an Event through the geographical location tracking (global positioning system) feature on your mobile device.

You agree that you will not use the Website or any location information displayed on the Website in any way, other than as permitted by the Website Use and Membership Terms & Conditions, including to stalk, harass, abuse, defame, threaten or defraud other Members, or to collect, attempt to collect, or store location or personal information about other Members.

This information may also be used to provide Us and third parties authorised by Us to analyse live data as to social trends and movements. Any such use of this information will be in accordance with our Privacy Policy and will occur after we have removed Your name and any other personally identifying information from it and/or have combined it with other people's data in a way that is no longer associated with You.

The location-based information service provided on the Website is intended only as a personal location-based service for individual use and should not be used or relied on as an emergency locator system, used while driving or operating vehicles, or used in connection within any hazardous environments requiring failsafe performance, or any other application in which the failure or inaccuracy of that application could lead or contribute to death, personal injury or property damage. CitySwagga is not suited to or intended for family finding purposes, fleet tracking, or any other type of business or commercial use.

You agree to use the Website and any associated services for personal, domestic or household purposes only.

### **4. Information on the Website**

CitySwagga is not responsible for the cancellation, change of date or venue of Events. You agree to check with the Venue(s) for accuracy of the information provided on the Website. CitySwagga is not responsible for any typographical errors, accuracy and/or other errors or omissions in the information provided by the Venue(s) directly to You or published by the Venue(s) on the Website. CitySwagga is not affiliated with any promotions, competitions, loyalty participation cards, or with any Venue(s) or Event(s), unless specifically stated.

CitySwagga does not make any representations or warranties, whether express, implied in law or residual, as to the sequence, accuracy, completeness or reliability of information, opinions, research information, data and/or content contained on the Website (including but not limited to any information which may be provided by the Venues and/or any other third party) ("Information") and shall not be bound in any manner by any Information contained on the Website.

CitySwagga reserves the right at any time to change or discontinue without notice, any aspect or feature of the Website. No information on the Website shall be construed as advice and is offered for information and entertainment purposes only. You rely on the Information contained on the Website at Your own risk. If You find an error or omission on the Website, You agree to let Us know.

### **5. Intellectual Property and Trade Marks**

CitySwagga.com.au is owned and operated by CitySwagga. The software, content, visual interfaces, information, graphics, design, compilation, computer code, including but not limited to, mobile device applications and all other elements of the Website (collectively, the "Materials") are protected by Australian copyright, trade mark, patent, international laws and conventions and all other relevant intellectual property and proprietary rights, and applicable laws. All Materials contained within the Website are the property of CitySwagga or its subsidiaries or affiliated companies and/or third party licensors.

The trade marks, names, logos and service marks (collectively "trade marks") displayed on the Website are registered and unregistered trade marks of CitySwagga and/or the Venues listed on the Website.

Except as expressly authorised by CitySwagga under these Terms and Conditions, You agree not to sell, licence, distribute, copy, modify, publicly perform or display, transmit, publish, edit, adapt, create derivative works from, or otherwise make unauthorised use of the Materials, intellectual property and/or trade marks.

### **6. External Links**

Links to external websites ("External Links") may be provided for Your convenience, but You acknowledge and agree they are beyond the control of CitySwagga. No representation is made by CitySwagga as to the content of external websites. Use or reliance on any External Links and the content contained on external websites is at Your own risk. When visiting external websites from External Links on the Website, You must refer to that external website's terms and conditions of use. No hypertext links shall be created from any website controlled by You (and You will take reasonable steps not to permit any other third party to do so) to the Website without the express prior written permission of CitySwagga. Please contact Us if You would like to link to the Website or would like to request a link to Your website.

### **7. Public Forums and Submissions**

CitySwagga is not responsible for any material submitted to public areas of this Website by You (which include once forums, bulletin boards, hosted pages, chat rooms, or any other public area found on the Website). Any material (whether submitted by You or any other Member or Venue) is not endorsed, reviewed or approved by CitySwagga. CitySwagga reserves the right to remove any material submitted or posted by You in public areas, without notice to You, if it becomes aware and determines, in its sole and absolute discretion that You are or there is the likelihood that You may, including but not limited to the following:

- **7.1** defame, abuse, harass, discriminate, stalk, threaten or otherwise violate the rights of other Members or any third parties;
- **7.2** publish, post, distribute or disseminate any defamatory, obscene, indecent or unlawful material or information;
- **7.3** post or upload files that contain viruses, corrupted files or any other similar software or programmes that may damage the operation of CitySwagga's and/or a third party's computer system and/or network;
- **7.4** violate any copyright, trade mark, other applicable Australian or international laws or intellectual property rights of CitySwagga or any other third party; or
- **7.5** submit content containing marketing or promotional material which is intended to solicit business.

## **8. Specific Use**

You further agree not to use the Website to send or post any message or material that is unlawful, harassing, defamatory, abusive, indecent, threatening, harmful, vulgar, obscene, sexually orientated, racially offensive, profane, pornographic or violates any applicable law and You hereby indemnify CitySwagga against any loss, liability, damage, cost or expense of whatever nature which CitySwagga or any third party may suffer which is caused by, contributed to, or attributable to or in connection with, whether directly or indirectly, Your use of the Website to send or post any such message or material.

## **9. Cookies**

Cookies are electronic tags that most websites place on a user's computer in the process of sending that computer a file, such as a web page. You acknowledge that CitySwagga uses cookies. The cookies We place on Your computer will not be used to tell us anything about Your visits to other websites or Your use of the Internet in any other way. If You would prefer not to receive any cookies, You can set Your browser to refuse cookies or to alert You when one is being sent. You acknowledge that if You do so, some portions of the Website may not function properly if the cookies are disabled.

## **10. Warranties**

CitySwagga makes no warranties, representations, statements or guarantees (whether express, implied in law or residual) regarding the Website, the information contained on the Website, Your personal information or material and information transmitted over our system.

## **11. Disclaimer of Liability**

The Website and the entire contents thereof are provided to You "as is" and "as available". All conditions, representations and warranties (express, implied, statutory or otherwise) are excluded to the extent permitted by law including without limitation any implied warranties or conditions as to quality, fitness for purpose and reasonable skill and care, or that the Website is free from errors, infection by viruses or anything else that has contaminating or destructive properties and disclaims liability for any losses or damages so ensuing. CitySwagga shall not be responsible for and disclaims all liability for any loss, liability, damage (whether direct, indirect or consequential), loss of data, income or profit, loss of or damage to property and any claims of third parties, personal injury or expense of any nature whatsoever which may be suffered by You or any third party, as a result of or which may be attributable, directly or indirectly, to Your access and use of the Website, any information contained on the Website, or Your material and information transmitted over the Website or mobile device, or for any actions taken in reliance thereon or occasioned thereby or by reason of non-performance or interruption, or termination thereof.

You agree to defend, indemnify and hold CitySwagga and any affiliated companies and individuals harmless from any loss, liability, damage, cost or expense of whatever nature caused or contributed to by You, or in connection with the use of the Website or the placement or transmission of any message, information and/or advertising on the Website or through any mobile device by You.

## **12. Use of the Website**

CitySwagga makes no warranties, representations, statements or guarantees (whether express, implied in law or residual) regarding the Website, the information contained on the Website, Your personal information or material and information transmitted over our system.

CitySwagga may reserve the right to terminate Your use of and access to the Website (including Your membership) on 30 days' notice. CitySwagga reserves the right to immediately suspend and/or terminate Your use of and access to the Website (including Your membership) without notice, if in Our opinion, You have breached the Website Use & Membership Terms and Conditions.

## **13. General**

- **13.1 Entire Agreement**

These Website Use & Membership Terms and Conditions and Privacy Policy together contain the entire agreement between You and CitySwagga in relation to Your use of the Website. Unless otherwise specifically stated these Website Use & Membership Terms and Conditions, along with the Privacy Policy, supersede and replace all previous understandings, agreements, representations, whether written or oral, or warranties between You and CitySwagga in respect of Your use of the Website.

- **13.2 Variation**

CitySwagga may at any time modify any relevant terms and conditions, policies or notices. You acknowledge that by visiting the Website from time to time, You shall become bound to the current version of the relevant terms and conditions and, unless stated in the current version, all previous versions shall be superseded by the current version. You shall be responsible for reviewing the then current version each time You visit the Website.

- **13.3 Inconsistency**

Where there is any inconsistency between the provisions of the Website Use & Membership Terms and Conditions and any other relevant terms and conditions, policies or notices, the other relevant terms and conditions, policies or notices which relate specifically to a particular section or part of the Website shall prevail in respect of Your use of the relevant section or part of the Website.

- **13.4 Waiver**

A party's right under the Website Use & Membership Terms will not be prejudiced or restricted by any forbearance, delay or indulgency on its part in enforcing its rights. If a party waives a right under the Website Use & Membership Terms, this does not operate as a waiver of a subsequent breach of this right or any other right under the Website Use & Membership Terms.

- **13.5 Assignment**

CitySwagga shall be entitled to cede, assign and delegate all or any of its rights and obligations of any relevant terms and conditions, policies and notices to any third party. You must obtain Our prior written consent before assigning any of Your rights and obligations under the Website Use & Membership Terms.

- **13.6 Severability**

All provisions of any relevant terms and conditions, policies and notices are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision of any relevant terms and conditions, policies and notices, which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as being severed and the remaining provisions of any relevant terms and conditions, policies and notices shall remain in full force and effect.

- **13.7 Applicable Laws**

Any relevant terms and conditions, policies and notices shall be governed by and construed in accordance with the laws of Western Australia. You consent to the exclusive jurisdiction of the courts exercising jurisdiction in Western Australia in respect of any disputes arising in connection with the Website, or any relevant terms and conditions, policies and notices or any matter related to or in connection therewith.

- **13.8 Comments or Questions**

If You have any questions, comments or concerns arising from the use of the Website, the Privacy Policy or any other relevant terms and conditions, policies and notices or the way in which We are handling Your personal information, please contact Us.