

Santos TOUR DOWN UNDER

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2027 Tour Down Under - Associated Event Promotion Conditions

1. **Definitions:** The following definitions apply unless the context requires otherwise.

“Agreement” means the agreement between SATC, and the Business described in clause 2.

“Associated Event” means an independently hosted event that forms part of the Event program.

“Business” means the party named as the “Business” in the Tour Down Under Associated Events Application or as substituted in accordance with these Conditions.

“Business Day” means any day not being a Saturday, Sunday, or public holiday in South Australia.

“Conditions” means these Associated Event Promotion Conditions.

“Confirmation Date” means the date SATC sends a confirmation to the Business.

“Corporate Identification” means the trademark (whether registered or not) which identifies the Business’s goods or services, and which is nominated by the Business in writing on or before the Event for use in connection with the Associated Event and pursuant to the terms of this Agreement.

“Event” means the Tour Down Under cycling race in and around Adelaide, South Australia from Saturday 16/01/2027 to Sunday 24/01/2027.

“Event Logo” means: (a) the approved Tour Down Under logo made available to the Business by SATC; and (b) such other designations, slogans, logos, or trademarks used by SATC and for which SATC has notified to the Business as being approved for the Business’s use from time to time.

“Fee” means the fee payable by the Business in return for the Promotion Services and which is specified in the Tour Down Under Associated Events Application.

“GST” means the tax imposed by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

“Intellectual Property Rights” means all industrial and intellectual property rights including all: (a) know how, trade secrets, copyright, trademarks (whether registered or unregistered), designs, patents, and any right to have confidential information kept confidential; and (b) any application or right to apply for registration of any of the rights referred to in the immediately preceding paragraph (a).

“Invitee” means any person attending the Associated Event on behalf of the Business (whether during the Associated Event or otherwise) including but not limited to customers, invitees, patrons and guests.

“Loss” means claims, loss, liability, damage, cost or expense.

“Personal Information” means information or an opinion, whether true or not, relating to a natural person or the affairs of a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

“Promotion Services” means the services specified in the Tour Down Under Associated Events Application and which are to be provided by SATC to the Business subject to the terms of this Agreement. Such services may include but are not limited to event promotion and events-related administration services with respect to the Associated Event.

“SATC” means the South Australian Tourism Commission (ABN 80 485 623 691), a body corporate pursuant to the *South Australian Tourism Commission Act 1993* (SA), of Level 9 250 Victoria Square/Tarntanyangga, Adelaide SA 5000.

“Tour Down Under Associated Events Application” means the offer to supply an Associated Event made on the website for the Event published by SATC from time to time (available at www.tourdownunder.com.au).

“Warranted Materials” means the Corporate Identification and Tour Down Under Associated Events Application provided by the Business.

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2. **Agreement:** This Agreement binds SATC and the Business from the Confirmation Date and terminates on Friday 29 January 2027 (“**Term**”), unless otherwise terminated in accordance with the terms of this Agreement. The Agreement consists of: (a) these Conditions; and (b) any amendments or variations made in accordance with these Conditions. The terms of any other document (including any document of the Business) that purports to form part of the Agreement is hereby excluded unless expressly confirmed in writing by the parties as forming part of the Agreement. In case of any inconsistency between a provision of these Conditions and any a provision of any other document forming part of the Agreement, these Conditions will prevail.
3. **Payment:** The Business must pay the Fee in accordance with this clause 3. The Business must pay the Fee up-front in full as set out in the Tour Down Under Associated Events Application. SATC will provide an invoice to the Business for the Fee. The Business must make payment of an invoice by the due date for payment specified in the invoice. The Fee and any other payments to be made under these Conditions are inclusive of GST unless otherwise specified. In relation to the Associated Event, SATC is not required to provide any Promotion Services to the Business unless and until the Fee has been paid in full in accordance with this clause 3.
4. **Licence by SATC:** SATC grants to the Business a limited, non-exclusive, royalty free licence for the Term (with the right to sublicense to service providers only) to use the Event Logo solely in relation to and for the purpose of promoting the Associated Event on the terms and conditions set out in this Agreement and the Business accepts that licence. SATC may use or license others to use the Event Logo as SATC sees fit (in its sole and absolute and unfettered discretion) either alone or in conjunction with any other logos, trademarks, or names. The Business accepts that the Event Logo is the sole and exclusive property of SATC and that all Intellectual Property Rights and all goodwill arising from the use of the Event Logo will accrue to and be the sole and absolute property of SATC. However, no Intellectual Property Rights previously owned by or licensed to the Business will, by virtue of this Agreement, be transferred to or vest in SATC merely because the Event Logo has been attached to it. All proposed uses of the Event Logo by the Business are subject to the prior written approval of SATC in each instance. SATC will advise the Business within 5 Business Days of submission as to whether approval is granted, such approval not to be unreasonably withheld. The Business must not use or attempt to register any logo, trademark, name, design, or mark like or capable of being confused with the Event Logo. The Business expressly acknowledges and agrees that all goodwill associated with the Event Logo, including any goodwill which might be deemed to have arisen through the Business’s activities, will accrue directly and exclusively to the benefit of SATC and is and will remain the sole and absolute property of SATC. The Business must observe such requirements with respect to the Event Logo as SATC may from time to time reasonably direct in writing.
5. **Licence by the Business:** The Business grants to SATC a limited, non-exclusive, royalty free licence for the Term to use the Corporate Identification for the purpose of promoting the Associated Event and promoting the Business’s goods and services in association with the Event on the terms and conditions set out in this Agreement and SATC accepts that licence. The Business may use or license others to use the Corporate Identification as the Business sees fit (in its sole and absolute and unfettered discretion) either alone or in conjunction with any other logos, trademarks, or names. The SATC accepts that the Corporate Identification is the sole and exclusive property of the Business and that

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all Intellectual Property Rights and all goodwill arising from the use of the Corporate Identification will accrue to and be the sole and absolute property of the Business. The SATC must not use or attempt to register any logo, trademark, name, design, or mark like or capable of being confused with the Corporate Identification. The SATC expressly acknowledges and agrees that all goodwill associated with the Corporate Identification is and will remain the sole and absolute property of the Business.

6. **Warranty:** The Business warrants that: (a) the Warranted Materials, and the SATC's use of those Warranted Materials, will not infringe the Intellectual Property Rights of any person; and (b) it has the necessary rights to vest the Intellectual Property Rights and grant the licences as provided in clause 5. If someone claims, or the SATC reasonably believes that someone is likely to claim, that all or part of the Warranted Materials infringe their Intellectual Property Rights, the Business must, in addition to the indemnity under clause 10 and to any other rights that the SATC may have against it, promptly, at the Business's expense: (a) use its best efforts to secure the rights for the SATC to continue to use the affected Warranted Materials free of any claim or liability for infringement; or (b) replace or modify the affected Warranted Materials so that the Warranted Materials or the use of them does not infringe the Intellectual Property Rights of any other person without any degradation of the performance or quality of the affected Warranted Materials.
7. **Promotion Services:** SATC may: (a) use the Corporate Identification or other Intellectual Property Rights specified in clause 5; (b) conduct advertising or promotion in relation to the Business or the Associated Event, including, without limitation, any Corporate Identification; or (c) use the name of the Business or of the Associated Event in any way that connects it with the Event. For the avoidance of doubt, the Promotion Services do not include ticketing services allowing entry to the Associated Event.
8. **Business responsible for Invitees:** The Business is responsible for all acts or omissions of Invitees at the Associated Event, including, without limitation, any Loss arising out of such acts or omissions. The Business must indemnify, and keep indemnified, SATC in respect of any such Loss including in connection with any failure to comply with these Conditions, except to the extent that the Loss is directly contributed to by SATC.
9. **Post Event Report:** The Business must respond to an SATC survey about the Associated Event within 30 days of the conclusion of the Associated Event. Survey questions will gather information including but not limited to visitor attendance, expenditure, ticket sales, attendee feedback, and customer satisfaction.
10. **Release and Indemnity:**
 - a. To the extent permitted by law, the Business excludes, releases, and forever discharges SATC from all liability for Loss (whether arising under statute, from negligence, personal injury, death, property damage, infringement of third-party rights or otherwise) arising from or in connection with the Associated Event.
 - b. SATC will not be responsible for acts, omissions or defaults of the Business, Invitees, directors, officers and sub-licensees and anyone acting on behalf of or at the direction of the Business) ("**indemnifying party**") nor, to the extent permitted by law, will SATC be liable for any Loss (whether arising under statute, from negligence, personal injury, death, property damage or infringement of third party rights or otherwise) arising from any act,

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matter or thing done, or permitted or omitted to be done, by the indemnifying party pursuant to, in default of or in connection with this Agreement.

- c. The Business agrees to indemnify SATC against all such Loss which may be incurred or sustained by SATC arising from any act, matter or thing done, permitted, or omitted to be done by the indemnifying party pursuant to, in default of or in connection with this Agreement.
- d. This clause 10 will apply except to the extent that the Loss is directly contributed to by SATC.

11. Obligation to Maintain Insurance: In connection with the provision of the Associated Event, the Business must have and maintain valid and enforceable insurance policies for: (a) public and products liability in the amount of \$20,000,000 per occurrence; and (b) workers' compensation as required by law. The Business must provide current relevant confirmation of insurance documentation from its insurance brokers certifying that it has insurance as required by this clause 11 as a condition precedent to supply of the Promotion Services by SATC.

12. Compliance with laws: The Business must, at its own cost, obtain and maintain all licences, permits, registrations, accreditations, approvals and authorisations required to conduct the Associated Event, and must ensure that the Associated Event is conducted in accordance with all applicable laws, standards, codes and regulatory requirements. The Business must ensure that all persons engaged by or on behalf of the Business in connection with the Associated Event hold any qualifications, training, licences, permits or accreditations required to perform their roles. The Business must promptly notify SATC of any actual or suspected breach, incident, complaint, investigation, notice or enforcement action in connection with the Associated Event.

13. Force Majeure:

- a. Each party is excused from performing its obligations under this Agreement to the extent it is prevented by circumstances beyond its reasonable control, including, without limitation, fire, flood, earthquake, acts of God, malicious damage, epidemic, explosion, sabotage, riot, civil disorder, rebellion or revolution, strikes; national emergency, terrorist threat or acts of prohibition or restriction by government law or regulation.
- b. The party relying on this clause 12 shall use all reasonable endeavours to eliminate or mitigate the impacts of the force majeure event on performance of its obligations under this Agreement.
- c. This clause 12 does not apply to a party's payment obligations under this Agreement.

14. Termination by SATC:

- a. SATC may immediately terminate this Agreement by notice in writing if the Business: (a) fails to make any payment for the Promotion Services in accordance with these Conditions; (b) is in breach of any other term of this Agreement; and (i) the breach cannot be remedied; or (ii) the Business fails to remedy such breach within 7 days of receipt of a written notice from SATC requiring it to do so; (c) assigns or purports to assign any of its rights or obligations under these Conditions in breach of this Agreement; or (d) enters into or is placed under any form of insolvency administration, is insolvent, or is otherwise unable pay its debts as and when they fall due. Unless otherwise agreed in writing by SATC, the Business agrees that immediately upon termination by SATC under these Conditions: (a) the Business will forfeit all monies paid to SATC prior to termination; (b) SATC will be free to enter into an agreement with any third party covering any or all of the

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- b. rights, benefits and entitlements under the Agreement; and (c) the forfeit of any monies pursuant these Conditions and the termination of the Agreement will not preclude any other rights which SATC may have against the Business as a result of the Business's default including, in particular, the right to claim damages for breach of the Agreement or otherwise at law.
- c. The Business may immediately terminate this Agreement by notice in writing if SATC is in breach of any term of this Agreement; and (i) the breach cannot be remedied; or (ii) SATC fails to remedy such breach within 7 days of receipt of a written notice from the Business requiring it to do so.

15. Privacy

- a. The Business must:
 - i. comply with the South Australian Government Information Privacy Principles (a copy of which can be found at <http://www.dpc.sa.gov.au/documents/rendition/B17711#sthash.s76QhRX6.dpuf>) ("IPPs") as if the Business were an "agency" for the purposes of the IPPs, in undertaking its obligations under this Agreement including in relation to all Personal Information received, created or held by it for the purposes of this Agreement; and
 - ii. allow SATC to undertake, and cooperate with, any audit or investigation which SATC deems necessary to verify that the Business is complying with the IPPs.
- b. The Business must promptly notify SATC if it fails to comply with clause 14(a) or if it becomes aware of any actual or threatened disclosure of or unauthorised access to Personal Information.
- c. SATC may collect, hold, use and disclose Personal Information provided by or on behalf of the Business for the purposes of: (i) assessing, administering and delivering the Promotion Services and the Associated Event; (ii) communicating with the Business about the Associated Event, including confirmations, updates and event reminders; (iii) conducting market research, analysis and reporting to improve or customise SATC's products, services and event offerings; (iv) promoting, ticketing and administering the Associated Event, including by sharing relevant information with SATC's ticketing, technology, marketing, event delivery and other service providers; (v) protecting SATC's legal rights, preventing or detecting unlawful conduct, managing security risks and complying with applicable laws; and (vi) where the Business has consented to receive marketing, personalising SATC's communications, services and marketing to the Business. SATC may also disclose Personal Information to government departments, agencies, regulators or other authorised bodies where permitted or required by law.
- d. SATC will manage the Business's Personal Information pursuant to the SATC's Privacy Policy Statement which can be found here <https://tourism.sa.gov.au/privacy-statement>. The Privacy Policy Statement sets out how the SATC collects, holds, uses, and discloses Personal Information in relation to the Business for the purposes listed above.
- e. By submitting the Tour Down Under Associated Events Application, entering into this Agreement or otherwise providing Personal Information to SATC, the Business acknowledges and consents to SATC collecting, holding, using and disclosing that Personal Information for the purposes set out in this clause 15 and in accordance with SATC's Privacy Policy Statement. To the extent the Business provides SATC with Personal Information about any individual, including its officers, employees, contractors, representatives, service providers or Invitees, the Business warrants that it has obtained all consents, permissions and authorisations necessary to allow SATC and its service providers to collect, hold, use and disclose that Personal Information for the purposes set out in this

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- f. clause 15, and that it has made each relevant individual aware of SATC's Privacy Policy Statement and the matters set out in this clause 15.

16. **Non-disparagement**

- a. The Business must not disparage or otherwise bring into disrepute or harm the SATC or the Government of South Australia ("**Relevant Parties**") or South Australia as a tourist destination, either by engaging in activities, making oral or written remarks or being publicly associated with matters which reflect adversely, or could be expected to reflect adversely on the Business or the Relevant Parties or South Australia as a tourism destination.
- b. The Business must ensure that in delivering the Promotion Services, it does not: (a) use inappropriate language or content which promotes racism or discrimination; or (b) omit to do anything which would be reasonable for it to do having regard to its obligations under this Agreement generally and in respect of this clause e.

17. **Miscellaneous**

- c. Agreement disclosure: SATC may disclose this Agreement and/or information in relation to this Agreement in either printed or electronic form and either generally to the public or to a particular person because of a specific request. Nothing in this clause derogates from: (a) the Business's obligations under any provisions of this Agreement; or (b) the provisions of the *Freedom of Information Act 1991 (SA)*.
- d. Publicity: A party must not: (a) represent or purport to represent the other party, or express views or opinions purported to be representative of the other party without the prior written agreement of the other party; (b) disclose or make public any information or material acquired or produced in connection with this Agreement, except as permitted under this Agreement; (c) make any public statement about this Agreement unless it has first obtained written consent of the other party.
- e. Survival: Despite termination or completion of this Agreement, this clause 15(e), clauses 4, 6, 10, 11, 17 and 15, and those conditions that by their nature remain in force, shall survive.
- f. Severability of provisions: Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction is ineffective only to the extent of the prohibition or unenforceability.
- g. No waiver: No failure to exercise nor any delay in exercising any right, power, or remedy by SATC operates as a waiver.
- h. Amendment: This Agreement may be amended in writing, signed by both parties.
- i. Governing law and jurisdiction: This Agreement will be governed by and construed in accordance with the laws of South Australia, and the parties submit to the exclusive jurisdiction of the courts of that State.
- j. Auditor-General: Nothing in this Agreement derogates from the powers of the Auditor-General under the *Public Finance and Audit Act 1987 (SA)*

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