

Bloom – Featured Events
Expression of Interest Terms and Conditions

1. Defined Terms

“Agreement” means this agreement between the SATC and the Applicant.

“Applicant” means the applicant owner, event manager or promoter the subject of the Application and the Agreement, or as substituted in accordance with these Conditions.

“Application” means the Application made on <https://tourism.sa.gov.au/events/event-and-festival-support/bloom> expressing interest to be recognised as an event associated with the SATC’s Bloom Spring Campaign

“Applicant’s Personnel” means any employees, agents and any other person employed or engaged by the Applicant for the purpose of staging the Event. Without limitation this includes any creative personnel such as artists, actors, musicians, dancers or any performers.

“Bloom IP” means the SATC’s Intellectual Property created and owned by the SATC in support of the SATC’s Bloom Spring Campaign, including without limitation, any logos, branding, trademarks or social media handles designed by the SATC relevant to the Bloom Spring Campaign such as “@BloomADL” or “#BloomADL”.

“Bloom Spring Campaign” means the annual series of events, festivals, shows and galas showcasing all South Australia has to offer throughout the spring season in Adelaide. The Bloom Spring Campaign will be hosted by the SATC on an annual basis, with the inaugural campaign commencing in spring 2021.

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

“Confirmation Date” means the date the SATC sends a notice of acceptance to the Applicant.

“Event” means the event, project, program or other activity nominated by the Applicant in the Application to be associated with the SATC’s Bloom Spring Campaign.

“Event IP” means any Intellectual Property created by the Applicant for the Event including, without limitation, any logos, branding or trademarks.

“Insolvency Event” means the happening of any of these events:

- (a) the appointment of an administrator or any action taken to make such an appointment over the Applicant;
- (b) the application to the court for an order or the making of an order that the Applicant be wound up;
- (c) the application to the court for an order appointing a liquidator or provisional liquidator in respect of the Applicant or one of them is appointed, whether or not under an order;
- (d) the Applicant resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent on terms approved by the SATC, or is otherwise wound up or dissolved;
- (e) a receiver or a receiver and manager of property of the Applicant is appointed whether by a court order or otherwise.

“Intellectual Property” means any patent, copyright, trademark, trade name, design, trade secret, know how, semiconductor, circuit layout or other form of intellectual property right whether

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arising before or after the execution of this Agreement and the right to registration and renewal of those rights.

“SATC” means 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.

“Venue” means the venue at which the Applicant will stage the Event.

2. Agreement

This Agreement binds the Applicant and the SATC from the Confirmation Date on a perpetual basis, unless this Agreement is otherwise terminated in accordance with these terms and conditions. This Agreement consist of: (a) the terms and conditions of this Agreement; (b) the Applicant’s Application; and (c) any amendments or variations made in accordance with this Agreement. The terms of any other document (including any document of the Applicant) that purports to form part of this Agreement is excluded unless expressly confirmed in writing by the SATC as forming part of this Agreement. In case of any inconsistency between the terms and conditions of this Agreement and the Applicant’s Application, these terms and conditions prevail.

3. Intellectual Property

The SATC grants the Applicant a licence to use the SATC’s Bloom IP on a revocable, worldwide, non-transferrable, non-exclusive, royalty free, fee-free basis for the term of this Agreement and for the sole purpose of promoting the Applicant’s Event as an event associated with the SATC’s Bloom Spring Campaign. All proposed use of the SATC’s Bloom IP must be approved in writing by the SATC prior to use.

The Applicant grants the SATC a licence to use the Event IP in accordance with brand usage guidelines as updated from time to time, on an irrevocable, worldwide, non-transferrable, non-exclusive, royalty free, fee-free basis for the term of this Agreement for promotional and marketing purposes, including, without limitation to promote South Australia as a tourism destination.

4. Media Releases and Press Statement

The Applicant must not make any public announcement, media release or press statement in connection with the Applicant’s Application, successful or otherwise, or the Applicant’s involvement in the Bloom Spring Campaign, without the prior written consent of the SATC. This clause survives termination of this Agreement.

5. Compliance with Laws

The Applicant must comply with, and give all notices required by any Act of Parliament, ordinance, regulation, by-law or code of practice relating to the Event. During the Term, the Applicant must comply with all laws and any applicable statutory and industry or health and safety standards. The Applicant warrants that all relevant statutory approvals are obtained for the Event and that the Event is conducted in a safe and responsible manner.

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The Applicant must ensure all Invitees comply with all reasonable directions given by law with respect to Invitees at the Event including, without limitation, directions or requirements in connection with access to the Venue, and the conduct of the Applicant and its Invitees in or around the Venue. The Applicant is solely responsible for all acts or omissions of Invitees at the Venue, including, without limitation, any loss, damage or injury arising out of such acts or omissions. The Applicant must indemnify and keep indemnified SATC in respect of any such loss, damage or injury arising as a result of the staging of the Event.

This clause survives termination of this Agreement.

6. Transfer of Benefits

The Applicant must not sell, on-sell, exchange for valuable consideration, assign, licence, sub-licence, transfer, bundle with other goods or services, or otherwise commercially deal with any of the rights, benefits and entitlements contained in this Agreement without prior written consent of SATC, which consent will be exercisable in its absolute discretion and may include such conditions as SATC sees fit.

7. Obligation to maintain insurance

The Applicant must take out and maintain a public liability insurance policy for a minimum of \$10 million for each insurable event and that policy must remain in force for the duration of this Agreement. The Applicant must also take out and maintain any other such insurances as a reasonably prudent person undertaking the activities of the Applicant would take out that covers the activities associated with the Event.

8. Termination

The SATC or the Applicant may terminate this Agreement for any reason whatsoever with no liability to the other party at any time up to 90 calendar days prior to the Event. The SATC may otherwise terminate this Agreement with immediate effect if:

- (a) the Applicant breaches any term of this Agreement and fails to or is unable to remedy that breach within 14 days of receiving a written notice from the SATC;
- (b) the Applicant is subject to an Insolvency Event;
- (c) the Applicant assigns or purports to assign any of its rights or obligations under this Agreement without the express consent in writing of the SATC.

9. Miscellaneous

This clause 9 survives termination of this Agreement.

No Relationship: Nothing in this Agreement creates a partnership, principal and agent, employer and employee or any other fiduciary relationship between the SATC and the Applicant. Neither party has any authority to bind the other party.

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 as a result of a specific request. Nothing in this clause derogates from: (a) the

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Applicant's obligations under any provisions of this Agreement; or (b) the provisions of the *Freedom of Information Act 1991 (SA)*.

Privacy: The SATC requires personal information from the Applicant for the purposes of: (a) assessing the Applicant's Application; (b) sending the Applicant customer service emails including notice of acceptance and reminders; (c) preventing or detecting unlawful behaviour, to protect or enforce the SATC's legal rights or as otherwise permitted by law; (d) ensuring the security of the SATC's and the SATC's supplier operations; (e) sharing that personal information with: (i) third parties who supply goods and services: (A) on which the SATC's products and systems are built; or (B) so that the SATC can promote the Bloom Spring Campaign and for other reasons described in their privacy policies, (ii) government departments, agencies or other authorised bodies where permitted or required by law. The SATC will manage the Applicant'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 Applicant for the purposes listed above.

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.

No waiver: No failure to exercise nor any delay in exercising any right, power or remedy by SATC operates as a waiver.

Amendment: SATC reserves the right to modify or amend the Agreement, in whole or in part, at any time without notice.

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.

Auditor-General: Nothing in this Agreement derogates from the powers of the Auditor-General under the *Public Finance and Audit Act 1987 (SA)*