

MERCHANDISE CONDITIONS

- 1) Definitions: The following definitions apply unless the context requires otherwise.
- “Agreement” means the agreement described in clause 2) between SATC and the Company.
- “Alternative Site” means a Site selected by SATC and offered to the Company in place of a Site, in accordance with clause 19.
- “Company” means the party named as the “Company” in the Merchandise Booking or as substituted in accordance with these Conditions.
- “Company Personnel” means any employees, agents and any other person employed or engaged by the Company.
- “Conditions” means these Merchandise Conditions.
- “Confirmation Date” means the date SATC sends a booking confirmation to the Company.
- “Event” means the Adelaide 500 motor sport event held at the Venue for which SATC has responsibility under the *South Australian Motor Sport Act 1984 (SA)*.
- “Event Conditions” means the event conditions binding all attendees at the Event imposed pursuant to regulation 11 of the South Australian Motor Sport Regulations 2014 (SA).
- “GST” means any tax in the nature of a tax on, or on the supply of, goods, real property, services or any other thing levied, imposed or assessed by the Commonwealth of Australia or any State or Territory of Australia or municipal authority which may operate at any time during the term of this Agreement.
- “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 arising before or after the execution of this Agreement and the right to registration and renewal of those rights.
- “Invitee” means any person entering the Site as a result of the express or implied invitation of the Company (whether during the Event or otherwise) for their mutual gain or benefit including but not limited to any member of the public entering the Site to inspect, purchase or otherwise do business on the Site.
- “Merchandise Booking” means the booking made on the website for the Event published by SATC from time to time (available at https://superloopadl500.com.au/event_info/applications/apply-now-trade-and-activation-site).
- “Merchandise Services” means the grant by SATC to the Company to occupy a Site for carrying on a trade, display or activation business subject to the terms of this Agreement. Such services may include, but are not limited to: (a) Tickets; (b) access to a selected Site; and (c) optional additional items (e.g. television feed, trestle tables and chairs).

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“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;

“Site” means the Merchandise Services site at the Venue selected by SATC to accommodate the Company at the Event.

“Temporary Structures Policy” means the Temporary Structures Policy for Merchandisers Caterers and Displays for the Event published by SATC from time to time (available at https://superloopadl500.com.au/event_info/logistical/temporary-structures).

“Ticket” means any ticket, pass, credential, lanyard, wristband or other document or general or specific authorisation issued by SATC allowing entry to the Event and any relevant Site.

“Total Cost” is the total cost payable by the Company in return for the Merchandise Services including GST.

“Trade and Activation Sites Manual” means the Trade and Activation Sites Manual for the Event published by SATC from time to time (available at https://superloopadl500.com.au/event_info/logistical/trade-display-manual).

“Venue” means the Adelaide Street Circuit (also known as the Adelaide Parklands Circuit), a temporary street circuit in the East Parklands adjacent to the central business district of the city of Adelaide in South Australia.

2) Agreement: This Agreement binds SATC and the Company from the Confirmation Date. The Agreement consists of: (i) these Conditions; (ii) the Event Conditions; (iii) the Temporary Structures Policy; (iv) Trade and Activation Sites Manual; and (v) any amendments or variations made in accordance with these Conditions. The terms of any other document (including any document of the Company) that purports to form part of the Agreement is hereby excluded unless expressly confirmed in writing by SATC 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, the provision of these Conditions will prevail.

3) Payment: The Company must pay the Total Cost in accordance with this clause 3). The Company must pay the Total Cost up-front in full as set out in the Merchandise Booking. SATC will provide an invoice to the Company for the Total Cost. The Company must make payment of the invoice by the due date for payment specified in the invoice. The Total Cost and any other payments to be made under these Conditions are inclusive of GST unless otherwise specified. In relation to the Event, SATC is not required to issue any Tickets or provide any Merchandise Services to the Company unless and until the Total Cost has been paid in full in accordance with this clause 3).

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4) Intellectual Property: The parties acknowledge that the Intellectual Property of each party is that party's ("first party") sole and exclusive property and that by this Agreement the other party ("second party") acquires no right, title or interest in the Intellectual Property of the first party. The Company licences SATC to use Company's logo, trademarks, corporate name and other promotional material as may be required by SATC in fulfilment of its obligations under this Agreement. The Company acknowledges that any Intellectual Property developed in relation to the Event is the sole and exclusive property of SATC.

5) No advertising or promotion: The Company must not without the prior written consent of SATC: (a) use any trade mark or other Intellectual Property owned by SATC; (b) offer Tickets to the Event for advertising or other promotional purposes (including prizes, contests or sweepstakes); or (c) use the name of SATC or of the Event in any way that connects it with the Company such that it implies or gives the impression that the Company or the Company's activities are endorsed by SATC, or that the Company is a sponsor or in some other way connected to SATC or the Event.

6) Licence: SATC agrees to grant to the Company a non-exclusive licence to use the Site, to be determined by SATC in its absolute discretion. The Company may only use the Site during the times specified in clause 9), for the duration of the Term, on the terms and conditions set out in this Agreement. The rights granted by SATC in this Agreement are contractual only and shall not create or confer upon the Company any tenancy, estate or interest in the Site or Venue.

7) Permitted Use: This licence is valid only for the purposes of trade, display or activation ("Permitted Use"). The Permitted Use does not include the display and/or sale of the following: (a) food and beverage products (including all beer, cider, spirits, wine and any other non-alcoholic beverages); (b) adult entertainment goods and/or services; or (c) any other goods and/or services which, in the opinion of SATC, may cause material harm or bring into disrepute or otherwise materially adversely affect the reputation or image of the Event or SATC, or the benefits that SATC suppliers can reasonably expect to receive from their association with the Event.

8) Term: Unless terminated sooner, the Agreement described in clause 2) begins on the Confirmation Date and continues until 11:59 AM Tue 5/03/2019, and access to the Site is permitted only during the access times specified in clause 9) (Term). The Company is not permitted to access the Site during times other than those specified in clause 9).

9) Access Times: The Company may enter the Site during the access times specified below:

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Open	Close
8:00 AM Mon 17/02/2020	5:00 PM Mon 17/02/2020
8:00 AM Tue 18/02/2020	5:00 PM Tue 18/02/2020
8:00 AM Wed 19/02/2020	5:00 PM Wed 19/02/2020
8:00 AM Thu 20/02/2020	5:00 PM Thu 20/02/2020
8:00 AM Fri 21/02/2020	11:59 PM Fri 21/02/2020
8:00 AM Sat 22/02/2020	11:59 PM Sat 22/02/2020
8:00 AM Sun 23/02/2020	11:59 PM Sun 23/02/2020
8:00 AM Mon 24/02/2020	5:00 PM Mon 24/02/2020
8:00 AM Tue 25/02/2020	11:59 AM Tue 25/02/2020

10. Outgoings: SATC will not require the Company to contribute to any of the outgoings for the property as a consequence of the licence. Outgoings in this context include any council rates, taxes, levies and water, and sewerage charges.

11. Clean: The Company will keep the Site in a clean, safe and tidy condition during the Term, and at the conclusion of the Term, return the Site to its original condition, or as otherwise agreed between SATC and Company. The Site must be cleaned and free of rubbish and goods/equipment on conclusion of the Term. The Company is solely responsible for the goods/equipment within the Site. SATC does not accept responsibility for goods/ equipment left in the Site after the Event opening hours specified in clause 9). If the Company fails to comply with this clause, it shall be liable for any cost incurred by SATC in rectifying the Company's non-compliance.

12. Alterations: The Company must not alter partitioning or affix any equipment to the Site without SATC's prior written consent. The Company must repair any damage that the Company causes to the Site. The cost of repairing any damage which, in SATC's opinion, has been caused by or in connection with the Company's use of the Site, will be borne by the Company and be payable immediately upon demand.

13. No Smoking: The Company must use all reasonable endeavours to prevent the Company's Invitees and Company personnel from smoking in the Site and Common Areas.

14. Nuisance: The Company will not do, or permit to be done, anything which in the opinion of SATC, may be or become a nuisance or annoyance, or which may cause damage to SATC, or to other licensees.

15. Inspection: The Company will allow any person authorised by SATC to inspect the Site at all reasonable times during the term of this Agreement.

16. Lawful Directions: The Company must at all times obey the lawful directions of SATC, or SATC's employee's, agents and clients.

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

18. Temporary Structures: The Company shall ensure the design of any element of infrastructure to be supplied or installed by the Company is structurally sound in accordance with all relevant codes and standards. Detailed design verification, and construction installation certification in accordance with the verified detailed design plans, must be provided in accordance with the Temporary Structures Policy.

19. Alternative Site: If, in respect of the Event, the Site is not available for use by the Company for any reason, SATC will endeavour to offer the Company an Alternative Site for the Event. The exact particulars of the Alternative Site will be at the sole discretion of SATC.

20. Transfer of benefits: The Company 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 the Agreement (including, without limitation, any Tickets) without prior written consent of SATC, which consent will be exercisable in its absolute discretion and may include such conditions as SATC sees fit.

21. Company responsible for Invitees: The Company must ensure all Invitees comply with: (i) all reasonable directions given by officers, employees or agents of SATC, or any requirements of SATC including, without limitation, directions or requirements in connection with access to the Venue, the use of the Site or the conduct of the Company, Company Personnel and its Invitees in or around the Venue or the Site; and (ii) the Event Conditions as if each Invitee were a 'Patron' as defined in that document. The Company is responsible for all acts or omissions of Invitees at the Site, including, without limitation, any loss, damage or injury arising out of such acts or omissions. The Company must indemnify and keep indemnified SATC in respect of any such loss, damage or injury including in connection with any failure to comply with these Conditions. At all times SATC or its representatives may with reasonable cause refuse entry to any Invitees or direct any Invitees to leave the Event. In particular, any person who does not comply with the Event Conditions may be refused entry or directed to leave the Event.

22. Tickets: The Company must ensure that all its Invitees display the correct Ticket in a clear and visible manner at all times within the Venue. SATC or its representatives may refuse entry to the Event or the Site to an Invitee who is not displaying a Ticket. SATC or its agents may refuse service to an Invitee who is not displaying a Ticket within the Site. Each Invitee must keep his or her Ticket safe and in good condition, as SATC is not obliged to replace any Ticket under any circumstances, including but not limited to loss or theft – however SATC may, in its sole and absolute discretion, replace a Ticket which has been lost or stolen (and may charge a fee for that replacement).

23. Release and Indemnity: To the extent permitted by law, the Company excludes, releases and forever discharges SATC, the Crown in the Right of South Australia ("Crown"), the Confederation of Australia Motor Sport Ltd ("CAMS") and each of the 'Entities', as defined in the Event Conditions from all liability for claims, loss, damage, costs or expenses (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 Event.

24. Neither SATC, the Crown, CAMS nor each of the Entities will be responsible for acts, omissions or defaults of the Company, Invitees, directors, officers and sub-licensees (and anyone acting on behalf of or at any of the Company's direction) ("Company Personnel") nor, to the extent permitted by law, will any of SATC, the Crown, CAMS or each of the Entities be liable for any claim, loss, damage, cost or expense (whether arising under statute, from negligence, personal injury, death, property damage or infringement of third party rights or otherwise) arising from any act, matter or thing done, or permitted or omitted to be done, by Company Personnel pursuant to, in default of or in connection with this Agreement.

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25. The Company indemnifies and must keep indemnified each of SATC, the Crown, CAMS and each of the Entities against all such claims, loss, liability, damage, cost or expense which may be incurred or sustained by any of SATC, the Crown, CAMS and each of the Entities arising from any act, matter or thing done, permitted or omitted to be done by the Company or Company Personnel pursuant to, in default of or in connection with this Agreement.

26. Insurance: The Company must effect and maintain public liability insurance for an insured amount of \$20,000,000 per occurrence. The policy of insurance referred to in this clause 26 must be held until the expiry of this Agreement. The Company must, on request by SATC, provide current relevant confirmation of insurance documentation from its insurance brokers certifying that it has insurance as required by this clause 26.

27. Unforeseen events: SATC is excused from performing its obligations under this Agreement to the extent it is prevented by circumstances beyond its reasonable control, including but not limited to acts of God, natural disasters, acts of war, weather, riots and strikes outside its organisation.

28. Termination by SATC: SATC may immediately terminate this Agreement by notice in writing if the Company: (a) fails to make any payment for the Merchandise 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 Company 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.

29. Unless otherwise agreed in writing by SATC, the Company agrees that immediately upon termination by SATC under these Conditions: (a) the Company 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 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 Company as a result of the Company's default including, in particular, the right to claim damages for breach of the Agreement or otherwise at law.

30. Refund of monies to Company: SATC may cancel the Merchandise Services and refund amounts paid to SATC by the Company on receipt of written notice from the Company. If SATC receives notice of termination: (a) more than 75 days prior to the Event, SATC will refund 100% of the Total Cost; or (b) more than 60 but less than 75 days prior to the Event, SATC will refund 50% of the Total Cost; paid to SATC by the Company pursuant to this Agreement. SATC will not

refund any portion of the Total Cost if a notice of termination is received less than 60 days prior to the Event.

31. Conditions of refund: Upon receipt of any refund paid to the Company under these Conditions, SATC will thereby be released and discharged by the Company from all claims and damages of any kind in relation to this Agreement.

32. Miscellaneous

a) Agreement disclosure: SATC may disclose this Agreement and/or information in relation to this Agreement in both 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: (i) the Company's obligations under any provisions of this Agreement; or (ii) the provisions of the Freedom of Information Act 1991 (SA).

b) SATC requires personal information from the Company for the purposes of: (i) assessing a Merchandise Booking; (ii) sending the Company customer service emails including confirmation and Event reminders; (iii) preventing or detecting unlawful behaviour, to protect or enforce the SATC's legal rights or as otherwise permitted by law; (iv) ensuring the security of the SATC's and the SATC's supplier operations; (v) sharing that personal information with: (1) third parties who supply goods and services: (a) on which the SATC's products and systems are built; or (b) so that they can run the Event and for other reasons described in their privacy policies, (2) government departments, agencies or other authorised bodies where permitted or required by law.

c) The SATC will manage the Company'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 Company for the purposes listed above.

d) Continuing Conditions: Conditions: Clauses 5) (No advertising or promotion), 21 (Company responsible for Invitees), 23 (Release and Indemnity), 31(Conditions of refund), and 32 (Miscellaneous) continue to apply after termination or expiration of this Agreement.

e) 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.

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

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

h) 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.

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