

Hashtag Rights Request Terms & Conditions

Photography and Video Usage

Destination Kiama appreciates that you wish to share your content (the "Content(s)") with us ("Destination Kiama operating as Kiama Municipal Council, herein referred to as Destination Kiama"). This document sets out the terms and conditions (the "Agreement") under which you ("you", "your", "Owner") provide Destination Kiama ("Destination Kiama", "we", "us", "our") with the rights to use the Content(s) and give us certain representations about the Content(s).

Depending on the method by which you provide the Content(s) to us, we may ask you to confirm that you have read, accepted and agreed to this Agreement. However, in all cases, by submitting content to us, you agree to be bound by the terms of this Agreement.

Terms and Conditions

IN THIS AGREEMENT YOU GRANT DESTINATION KIAMA A NON-EXCLUSIVE LICENSE TO THE CONTENT(S), A WAIVER OF MORAL RIGHTS, A RELEASE AND AN INDEMNITY REGARDING OUR USE OF THE CONTENT(S).

In exchange for the opportunity to have the Content(s) appear in certain promotional advertising materials for Destination Kiama, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, you hereby agree with and represent to Destination Kiama as follows:

Terms and conditions for content providers to Destination Kiama, www.kiama.com.au.

Participant Agreement

By replying to the request of Destination Kiama to participate in CrowdRiff (content aggregation tool) with the hashtag #yesKiama, you agree to all the terms and conditions in this agreement ("Terms and Conditions" or "Agreement"). Destination Kiama, which does business using the domain name kiama.com.au, also agrees to abide by these Terms and Conditions. Destination Kiama may terminate its websites or its use of your content at any time at its sole discretion. Any attempt by you to change any of the Terms and Conditions is hereby rejected, and shall not be made part of the Terms and Conditions unless expressly agreed to in writing by an authorized representative of Destination Kiama.

Allowable Participants

You must be 18 years of age or older and have the legal right to enter into this agreement and to grant any and all rights to your name, username, and image (collectively "Name") and user-generated Content(s) in the form of original photography, video or text.

You hereby:

- (i) grant to Destination Kiama, irrevocably and in perpetuity, a non-exclusive license to reproduce, copy, publish, broadcast, display, modify, edit, exploit and/or otherwise use the Content(s), in whole or in part, throughout the world in any manner or media whatsoever for any and all advertising, promotion and/or other purposes of trade;
- (ii) waive any and all moral rights in and to the Content(s) in favour of Destination Kiama and anyone authorized by Destination Kiama to use the Content(s); and

- (iii) give your permission, irrevocably and in perpetuity, to reproduce, copy, publish, broadcast, display, modify, edit, exploit and/or otherwise use your name, your likeness and any comments attributed to you (collectively, the "Assets") that may be included in the Content(s), or any material based upon or derived therefrom, or to refrain from so doing, in whole or in part, in any manner or media whatsoever throughout the world;

You acknowledge that Destination Kiama's decision to use the Content(s) and/or the Assets as set out herein is at its sole and absolute discretion and agree that you shall have no right of approval, no claim to additional compensation or benefit, and no other claims whatsoever arising out of the use of the Content(s) and/or the Assets;

You hereby warrant and represent that the Content(s) (and, each individual component thereof – including, but not limited to, the Assets):

- (i) to the extent it contains a story or narrative, is truthful and accurate;
- (ii) you are the sole owner of the Content(s) and have full right and title to copyright in the Content;
- (iii) the Content(s) are not copied wholly or substantially from any other work or material;
- (iv) you have not entered into any agreement or arrangement involving the sale, mortgage, pledge, granting of options or any other rights over his/her interest in the copyright in the Content(s);
- (v) the mere use of the Content(s) by Destination Kiama pursuant to this Agreement will not infringe any copyright or similar or other intellectual property rights of any person, nor give rise to payment by Destination Kiama or any royalty to any third party or to any liability to pay compensation;
- (vi) neither the execution of this Agreement nor the performance by the Owner of his/her obligations will cause the Owner to be in breach of any agreement to which he/she is a party or is subject.

You agree to indemnify and hold harmless Destination Kiama, its subsidiaries, associated and affiliated entities, and each of their respective employees, officers, directors, agents, representatives, successors and assigns (collectively, the "Released Parties") from any and all liabilities, losses, sums, damages, demands, costs and expenses incurred or suffered by any of the Released Parties that arise, directly or indirectly, out of or in connection with the Content(s), the Assets and/or from a breach or alleged breach of your foregoing warranties and representations;

You agree that any and all materials (the "Materials") created by or for Destination Kiama that incorporate, in whole or in part, the Content(s) and/or the Assets shall remain the sole and exclusive property of Destination Kiama and that Destination Kiama shall retain all intellectual property rights, including, without limitation, copyright, that exist in the Materials. Further, to the extent that you may have any moral rights in the Materials, you hereby waive all such moral rights in favour of Destination Kiama and anyone authorized by Destination Kiama to use the Content(s) and/or Assets; and

You acknowledge that if any portion of this Agreement is held to be invalid or unenforceable, all other provisions shall nevertheless continue to be valid and enforceable. This Agreement is governed by the domestic laws of New South Wales operates to the benefit of the Released Parties, as well as their administrators, successors and assigns, and is binding on you and your heirs, administrators, successors, permitted assigns, insurers and estate; and

You agree that no additional rights or consents are necessary to grant the rights to Destination Kiama or others as provided herein. You were not and will not be compensated or granted any consideration by any third party for submitting your Content(s).

You will not be compensated or granted any consideration in any way by Destination Kiama for the use of your Name or Content(s).

Talent Release

The Owner irrevocably releases Destination Kiama, its employees, agents, officers and contractors from any action, proceeding, suit, claim or demand which the Owner has or may have including but not limited to infringement or violation of personal and /or property rights of any sort including defamation and rights under the *Privacy and Personal Information Protection Act 1998 (NSW)* which are connected to, or incidental to:

- (i) the Owner's participation in the recording of the Content(s);
- (ii) any other matter or thing referred to in this Agreement.

Indemnity

In consideration of Destination Kiama recording and using the Content(s) as set out in this Agreement, the Owner indemnifies and holds Destination Kiama, its employees, agents, officers and contractors ("the Indemnified Persons") harmless and keeps each of them indemnified from and against any action, proceedings, suit, claim or demand made against any of the Indemnified Persons which relates to the release and from and against any direct, indirect, consequential or special damage, loss, cost or expense (including legal expenses as between solicitor and client) suffered or incurred by any of the Indemnified Persons as a consequence thereof. If Destination Kiama is required to make a payment by way of damages to a third party as a result of the Owner breaching the I.P. rights of the third party in the course of preparing the Content(s), the Owner hereby agrees to indemnify Destination Kiama in full in respect of the amount paid by Destination Kiama to the third party, together with any costs incurred by Destination Kiama.

Non-Confidentiality

You understand and agree that your Name and Content will be publically displayed, and that it will not be treated in confidence. By replying to Destination Kiama's request to participate, you provide Destination Kiama with the unlimited, worldwide right to use and share your Name and Content(s) on its website, kiama.com.au; in all of its social media channels, such as Facebook, Twitter and Instagram, including both organic posts and paid ads; its printed marketing materials such as the Visitor's Guide and more; digital ads; and other promotional materials of any kind or type.

Destination Kiama Rights to User Generated Content

By replying to Destination Kiama's request to participate in CrowdRiff (content aggregation tool) with the hashtag #yesKiama, you are agreeing to these Terms and Conditions. You grant Destination Kiama and its agents a perpetual, transferable, sub-licensable, non-exclusive, worldwide license to (a) use, copy, transmit, distribute, reproduce, modify, create derivative works from, adapt, combine with other ideas or works, publish, translate, publicly perform, publicly broadcast and publicly display your Name and Content (or any modification thereto) in whole or in part, in any format or medium now known or later developed, and (b) use (and permit others to use) your Name and Content in any manner and for any purpose, including without limitation: marketing, advertising, commercial or promotional purposes that Destination Kiama or its agents deem appropriate. To be clear, Destination Kiama will have the right, but not the obligation, to use the Name and Content(s), as authorized in this Agreement.

Takedown

Should you want your Content removed from Destination Kiama's website, you will need to send a message to the following: tourism@kiama.com.au. After Destination Kiama acknowledges receipt of your email request, please allow 30 days for action to be taken, though Destination Kiama reserves the right to deny any such request.

Linking, Crawling and Archiving

If you would like to link to the website(s) of Destination Kiama you must comply with the following guidelines:

You must not incorporate any content from this site into your site or social media channels by in-lining, framing or creating other browser or border environments around the website content. You may only link to, not replicate, the content on the websites of Destination Kiama.

You may not use any Destination Kiama intellectual property, including Destination Kiama's trademarks, logos, designs or service marks in your links.

You may not create the appearance or impression of a relationship or affiliation between you or any third party and Destination Kiama.

Your site or social media channels may not, in the sole discretion of Destination Kiama, contain offensive, distasteful, illegal or inappropriate content.

If you would like to use a web crawler or other search tool to gather information from Destination Kiama's website(s) you must comply with the provisions of the robots.txt file of the site and you may not circumvent CAPTCHA or other security measures.

Other Conditions/Restrictions

CAUTION: Any attempt by any individual to deliberately damage the Destination Kiama website, tamper with the aggregation process, or otherwise undermine the legitimate operation of the CrowdRiff program may be a violation of criminal and civil laws. Should such an attempt be made, Destination Kiama reserves the right to cooperate in the prosecution of any such individual(s) and to pursue all remedies to the fullest extent permitted by law.

General

These Terms and Conditions and the Privacy Statement together with any additional terms to which you agree when using particular elements of the website(s) constitute the entire and exclusive agreement between you and Destination Kiama. Destination Kiama may, at its sole discretion, change these Terms and Conditions at any time.