

## CONTRACT TO PARTICIPATE IN THE 2015 AUSTRALIAN SUPERBIKE CHAMPIONSHIP – ROUND 2-5

**WARNING! THIS IS AN IMPORTANT DOCUMENT WHICH AFFECTS YOUR LEGAL RIGHTS AND OBLIGATIONS, PLEASE READ IT CAREFULLY AND DO NOT SIGN IT UNLESS YOU ARE SATISFIED YOU UNDERSTAND IT.**

### 1. I THE UNDERSIGNED (see below): [Insert Name]

HEREBY AGREE with Motorcycling Australia Limited ("MA") that I am by this agreement entitled to participate in the Motorcycle Activity/meeting listed in Schedule 2 (hereinafter called "the Meeting" or the "Event") at the venue listed at Schedule 3 (hereinafter called "the Venue") on the terms and conditions set out in this document.

### 2. DEFINITIONS In this declaration:

- "Claim" means and includes any action, suit, proceeding, claim, demand, damage, penalty, cost or expense however arising including but not limited to negligence BUT does NOT include:
  - a claim against MA, the Motorcycling Organisations and the Indemnities by any person expressly entitled to make a claim under a MA Insurance Policy; or
  - a claim against MA or the Motorcycling Organisations under any right expressly conferred by its constitution or regulation;
- "Indemnities" means and includes the persons, organisations and bodies corporate whose names appear in Schedule 1.
- "MA" means Motorcycling Australia Limited;
- "State Controlling Body" ("SCB") means a state or territory motorcycling association affiliated as a member of MA;
- "Motorcycling Activity" means performing or participating in any capacity in any authorised or recognised Motorcycling Organisation event, meeting or activity;
- "Motorcycling Organisation" means and includes MA, and the MA members (including the SCBs and affiliated clubs) and where the context so permits, their respective directors, officers, members, servants or agents.

### 3. RISK WARNING

I ACKNOWLEDGE that motorcycle sport is inherently dangerous and may involve risk. I recognise and understand that there are risks specifically associated with engaging in the sport (whether as a competitor, recreational rider, coach, official or media) which include, but are not limited to the following:

- that physical and mental injuries can and often do occur, which may result in me being hurt or even killed;
- that my machinery or equipment may be damaged, lost or destroyed;
- that competitors may ride dangerously or with a lack of skill;
- that track or Event conditions may be hazardous and may vary without warning or predictability;
- that organisers, officials, landowners/track operators and any agents or representatives of those in charge of meetings are frequently obliged to make decisions under pressure of time/or events;
- that any policy of insurance of or in respect of my life or physical or mental health may be voided;
- that there may be no or inadequate facilities for treatment or transport of me if I am injured;
- that I have an obligation to myself and to others to act safely and within the rules and regulations of MA;
- I acknowledge I should ensure I am aware of all of the risks involved, including those risks associated with any health condition I may have.
- By signing this participant declaration form I acknowledge, agree, and understand that participation in the recreational services provided by MA, the Motorcycling Organisations and the Indemnities, may involve risk. I agree and undertake any such risk voluntarily and at my own risk. I acknowledge that the assumption of risk and warning above constitutes a 'risk warning' in accordance with relevant legislation, including the *Civil Liability Act 2002 (NSW)*, *Civil Liability Act 2002 (WA)* and *Civil Liability Act (Tas)*.

### 4. WAIVER

- I acknowledge that it is possible for a supplier of recreational services or recreational activities to ask me to agree that statutory guarantees under the Australian

Consumer Law (which is Schedule 2 to the *Competition and Consumer Act 2010 (Cth)*) do not apply to me (or a person for whom or on whose behalf I am acquiring the services or activities).

- I acknowledge that If I sign this participant declaration form, I will be agreeing that my rights (or the rights of a person for whom or on whose behalf I am acquiring the services) to sue the supplier in relation to recreational services or recreational activities that I undertake because the services or recreational activities provided were not in accordance with the guarantees are excluded, restricted or modified as set out in Schedule 4 to this participant declaration form.
- To the extent of any liability arising, the liability of MA, the Motorcycling Organisations and the Indemnities will, at the discretion of MA, the Motorcycling Organisations and the Indemnities, be limited in the case of goods, to the replacement, repair or payment of the cost of replacing the goods and in the case of services, the resupply of the services or payment of the cost of having the services supplied again.

### 5. INDEMNITY AND RELEASE

IN CONSIDERATION of the acceptance of me as a participant in the Meeting, I, to the extent permitted by law:

- release and will release the Indemnities from all Claims that I may have or may have had but for this release arising from or in connection with my participation in the Motorcycling Activity;
- release and indemnify the Indemnities against any Claim which may be made by me or on my behalf for or in respect of or arising out of my death whether caused by the negligence or breach of contract by the Indemnities or in any other manner whatsoever; and
- indemnify and will keep indemnified the Indemnities to the extent permitted by law in respect of any Claim by any person:
  - arising as a result of or in connection with my competition or my participation in the Motorcycling Activities;
  - against the Indemnities in respect of any injury, loss or damage arising out of or in connection with my failure to comply with the Indemnities' rules and/or directions.

save that the above releases and indemnities shall not apply to the extent that the loss, damage or injury that is the subject of the Claim is caused or contributed to by the grossly negligent act or omission of the Indemnities.

- The release and indemnity provided by me in this declaration is in addition to, and will not in any way limit the application of, the conditions of sale attaching to tickets, conditions of entry, conditions of credentials or any other applicable terms or conditions in respect of the Event.
- A term of this release and indemnity will not apply where the term contravenes the law of the relevant jurisdiction under which any legal action is legitimately taken however such terms are severable and do not invalidate the remaining terms.

### 8. MEDICAL

I declare that I am and must continue to be medically and physically fit and able to participate in the Meeting. I will immediately notify MA in writing via my SCB of any change to my fitness and ability to participate. I understand and accept the Indemnities will continue to rely upon this declaration as evidence of my fitness and ability to participate.

- I acknowledge and agree that if required, the Indemnities (or any of them) may arrange medical or hospital treatment (including ambulance transportation) for me. I authorise such actions being taken by the Indemnities and agree to meet all costs associated with such action. I understand it is compulsory for me to have ambulance insurance in some form and I accept responsibility for the cost of ambulance transportation, ambulance cover and further agree to maintain ambulance cover during the term of my license / membership.

### 10. PRIVACY

MA, my SCB use and disclose personal information for the purposes of conducting and administering the Event and other related activities, including for identifying participants, recording results and providing member services or promotional material. MA collects, uses and discloses personal information in accordance with its privacy policy. MA may share your information with third parties as required by law, and including but not limited to disclosing your personal information for the purpose of administering the Event. The MA privacy policy contains information about how to access and correct personal information held by MA or how to make a complaint. Applications or services may be rejected if requested information is not provided. In certain circumstances, your information may be disclosed overseas, for example, to FIM. Contact information and a copy of MA's privacy policy is available on our website at [www.ma.org.au/](http://www.ma.org.au/).

### 11. PERSONAL HEALTH INFORMATION

I hereby agree with MA and the SCB that in consideration for my participation in the Event that MA and the SCB may receive, collect, store and use personal health information about me in the manner set out below:

- I ACKNOWLEDGE that:
  - If I am injured, become ill or die at or following the Event the services engaged to provide medical services in addition to any hospital at which I am treated (together "my Carers") will have health related information about me in their possession, power and control relating to me which is subject to obligations imposed by the Privacy Act ("my Information") and the Privacy Act is intended to protect my personal information;
  - MA and my SCB wish to collect my Information for purposes that include their risk management programs, evaluating and improving the safety of MA and SCB events and of the Meeting organisers and facility providers of MA / SCB permitted events, and generally to reduce the risks to persons engaged in motorcycle sport; and
  - It is reasonable for MA and my SCB to collect, store, use and disclose my Information in accordance with clause 11(a)(i) above and in the manner set out in clause 11(b).
- IN CONSIDERATION of my acceptance as a participant in the Meeting I consent and agree that MA and my SCB:
  - may collect and store any of my Information, including obtain my Information from third parties including my Carers;
  - may use any information collected in accordance with this clause for any purpose consistent with creating safer competition in motorcycle sport and events held by or in conjunction with MA, my SCB, or with an MA or SCB permit;
  - may disclose my Information to third parties provided such disclosure is reasonably intended to be used for the purpose of improving safety at events held by or in conjunction with MA, or with an MA permit provided any such information is held by MA or my SCB in accordance with the MA Privacy Policy.
- I irrevocably authorise MA and my SCB and hereby appoint MA and my SCB as my lawful attorneys to collect from my Carers, and I hereby direct my Carers to provide to MA or my SCB upon request being made by MA or my SCB, any of my Information including but not limited to any information concerning any incident or event causing or contributing to or resulting from any injury, illness or death to me, the details of any diagnosis and prognosis provided to me by my Carers (or any party with the knowledge of any of my Carers), and any other matter to the knowledge of my Carers that might reasonably be considered to be requested by MA or my SCB for the purpose of improving safety at MA and SCB events.

### 12. POLICIES AND REGULATIONS

- I acknowledge, understand and agree that it is a condition of my participation in the Event that I agree to be bound by, and subject to, the rules, regulations and jurisdiction of MA as amended from time to time. Copies of all MA rules, policies and regulations are

available by contacting the MA office. I agree to follow any rules set by the Motorcycling Organisations in connection with any Motorcycling Activities and if I fail to comply with the Motorcycling ORganisations rules and/or directions, I will not be permitted to participate or continue to participate and no refund will be given.

- b) All participants are bound by the MA anti-doping policy and thus understand they may be subject to drug testing. Testing conducted by the Australian Sports Anti-Doping Authority ("ASADA") is in accordance with the ASADA Act and the National Anti-Doping Scheme. This involves the taking of a sample (any human biological fluid or tissue whether alive or otherwise, or any human breath) for the purpose of detecting the use of a Prohibited Drug or Doping Method. Any participant infringing MA's policy or refusing a drug test may be disqualified or otherwise dealt with in accordance with the terms of the anti-doping policy.

## 13. RIGHT TO USE IMAGE

Right to Use Image: I acknowledge and consent to

photographs and electronic images (including, but not limited to, moving images) being taken of me during my participation in the Event. I acknowledge and agree that such photographs and electronic images are owned by Motorcycling Australia and it may use the photographs and electronic images for promotional or other purposes without my further consent being necessary. Further, I consent to Motorcycling Australia using my name, image, likeness and also my performance in the Event, at any time, by any form of media, to promote Motorcycling Australia or the Event.

## 14. PREVAILING CONDITIONS

You acknowledge and agree that:

- motorcycling and the Motorcycling Activities can and will be affected by the weather which may change without warning;
- there is often an element of the "luck of the prevailing conditions" when undertaking the Motorcycling Activities over which the

Motorcycling Organisation or any of them have no control;

- unintended incidents may occur during motorcycling including defects in the track hidden.

## 15. GOVERNING LAW

The governing law of this agreement is the law of the state of Victoria ('Jurisdiction'). You irrevocably and unconditionally consent and submit to the Jurisdiction of the courts of the Jurisdiction in which any incident occurs and waive any right to object to the exercise of such Jurisdiction

### SCHEDULE 1:

Please refer to next page

### SCHEDULE 2:

Please refer to next page

### SCHEDULE 3:

Please refer to next page

**SIGN  
HERE**

**16. EXECUTION** I THE UNDERSIGNED STATE THAT I HAVE READ AND UNDERSTOOD THIS PARTICIPANT DECLARATION (INCLUDING THE RISK WARNING AND WAIVER) AND AGREE TO THE TERMS AND CONDITIONS AS STATED.

**NAME (PRINT):** \_\_\_\_\_ **SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**PASSENGER (PRINT):** \_\_\_\_\_ **SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

## 15. THIRD PARTY INDEMNITY WHERE PARTICIPANT IS UNDER 18 YEARS OF AGE

I/WE \_\_\_\_\_ being the parents or guardians of the person named in Clause 1 (hereinafter called "the entrant") **HEREBY ACKNOWLEDGE:**

- I/we have read the whole of this document and understand it;
- I/we consent to the entrant participating in the Event; AND
- I/we are aware of the risks set out in Clause 3 above and agree to the waiver in clause 4;
- I/we acknowledge that the entrant is bound by and subject to the rules and policies of MA, including, without limitation, the MA anti-doping policy.

**16. IN CONSIDERATION** of the entrant being accepted as a participant in the Meeting **I/WE HEREBY INDEMNIFY AND RELEASE** the Indemnities in the same manner and to the same effect as if I/WE were the entrant and agree to personally accept all terms and conditions and obligations set out in this participant declaration,

**PARENT/GUARDIAN:** \_\_\_\_\_ **SIGNATURE** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**PASSENGER'S PARENT/GUARDIAN:** \_\_\_\_\_ **SIGNATURE** \_\_\_\_\_ **DATE:** \_\_\_\_\_

## Round 2 – Morgan Park, QLD

### SCHEDULE 1:

- Federation Internationale de Motocyclisme
- Motorcycling Australia Ltd
- Motorcycling Queensland
- Motorcycle Sportsmen of Queensland Inc
- Warwick District Sporting Car Club Inc
- Southern Downs Regional Council
- Sponsors TBA
- RACESAFE Australia Pty Ltd
- Queensland Ambulance Service

- All other persons involved in the organisation, conduct and promotion of the Event or construction or location of the facilities used in connection with or otherwise related to the Event
- Each of the respective officers, employees, servants, agents, sponsors, successors and assignees of each of the above.

### SCHEDULE 2:

10-12 April 2015

### SCHEDULE 3:

Morgan Park Raceway, QLD 4370

## Round 3 – Barbagallo WA

### SCHEDULE 1:

- Federation Internationale de Motocyclisme
- Motorcycling Australia Ltd
- Motorcycling Western Australia
- Motor Cycle Racing Club of WA Inc
- WA Sporting Car Club
- City of Wanneroo
- Sponsors TBA

- RACESAFE Australia Pty Ltd
- St Johns Ambulance of WA
- All other persons involved in the organisation, conduct and promotion of the Event or construction or location of the facilities used in connection with or otherwise related to the Event
- Each of the respective officers, employees, servants, agents, sponsors, successors and assignees of each of the above.

### SCHEDULE 2:

22-24 May 2015

### SCHEDULE 3:

Barbagallo Raceway, Wattle Ave off Old Yanchep Rd, Neerabup WA 6065

## Round 4 – Symmons Plains, TAS

### SCHEDULE 1:

- Federation Internationale de Motocyclisme
- Motorcycling Australia Ltd
- Motorcycling Tasmania
- Tasmanian Motorcycle Club Inc
- Motorsports Tasmania
- Sponsors TBA
- RACESAFE Australia Pty Ltd
- Tasmanian Ambulance Service
- All other persons involved in the organisation, conduct and promotion of the Event or construction or location of the facilities used in connection with or otherwise related to the Event
- Each of the respective officers, employees, servants, agents, sponsors, successors and assignees of each of the above.

### SCHEDULE 2:

4-6 September 2015

### SCHEDULE 3:

Symmons Plains Raceway, 1487 Midland Hwy, Perth TAS 7300

## Round 5 – Phillip Island, VIC

### SCHEDULE 1:

- Federation Internationale de Motocyclisme
- Motorcycling Australia Ltd
- Motorcycling Victoria
- Hartwell Motorcycle Club Inc
- Phillip Island Grand Prix Circuit
- PI Circuit Pty Ltd
- PI Operations Pty Ltd
- PI Greydens Pty Ltd
- Sponsors TBA
- RACESAFE Australia Pty Ltd
- Ambulance Victoria
- All other persons involved in the organisation, conduct and promotion of the Event or construction or location of the facilities used in connection with or otherwise related to the Event
- Each of the respective officers, employees, servants, agents, sponsors, successors and assignees of each of the above.

### SCHEDULE 2:

2-4 October 2015

### SCHEDULE 3:

Phillip Island Circuit, Back Beach Rd, Phillip Island VIC 3922

## SCHEDULE 4

### For recreational services or activities provided throughout Australia:

#### For recreational services to which the Australian Consumer Law (Commonwealth) applies:

By signing this form, I agree that the liability of the MA, the Motorcycling Organisations and the Indemnites in relation to recreational services (as that term is defined in the *Competition and Consumer Act 2010 (Cth)* and the Australian Consumer Law) for any:

- (a) death;
- (b) physical or mental injury (including the aggravation, acceleration or recurrence of such an injury);
- (c) the contraction, aggravation or acceleration of a disease;
- (d) the coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs:
  - (i) that is or may be harmful or disadvantageous to me or the community;
  - (ii) that may result in harm or disadvantage to me or the community, that may be suffered by me (or a person for whom or on whose behalf I am acquiring the services) resulting from the supply of recreational services or recreational activities;

is excluded and the application of any express or implied term that any services will be provided with due care and skill is hereby excluded.

#### For recreational services or activities provided in NSW or WA:

##### For recreational services or recreational activities to which the Australian Consumer Law (New South Wales) and Australian Consumer Law (Western Australia), applies:

By signing this form, I agree that the liability of MA, the Motorcycling Organisations and the Indemnites in relation to recreational services (as that term is defined in the *Competition and Consumer Act 2010 (Cth)* and the Australian Consumer Law) and recreational activities (as that term is defined in the *Civil Liability Act 2002 (NSW)* or *Civil Liability Act 2002 (WA)*, as applicable) for any:

- (a) death;
- (b) physical or mental injury (including the aggravation, acceleration or recurrence of such an injury);
- (c) the contraction, aggravation or acceleration of a disease;
- (d) the coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs:
  - (i) that is or may be harmful or disadvantageous to me or the community;
  - (ii) that may result in harm or disadvantage to me or the community, that may be suffered by me (or a person for whom or on whose behalf I am acquiring the services) resulting from the supply of recreational services or recreational activities;

is excluded and the application of any express or implied term that any services will be provided with due care and skill is hereby excluded.

#### For recreational services or activities provided in Victoria:

##### For recreational services to which the Australian Consumer Law (Victoria) applies:

**Warning under the Australian Consumer Law and Fair Trading Act 2012:** Under the Australian Consumer Law (Victoria), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the suppliers named on this form, MA, the Motorcycling Organisations and the Indemnites, are required to ensure that the recreational services supplied to you:

- (a) are rendered with due care and skill; and
- (b) are reasonably fit for any purpose which you either expressly or by implication, make known to the supplier; and
- (c) might reasonably be expected to achieve any result you have made known to the supplier.

Under section 22 of the Australian Consumer Law and *Fair Trading Act 2012 (Vic)*, the supplier is entitled to ask you to agree that these conditions do not apply to you. If you sign this form, you will be agreeing that your rights to sue the supplier under the Australian Consumer Law and *Fair Trading Act 2012* if you are killed or injured because the services were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in this form.

**Note:** The change to your rights, as set out in this form, does not apply if your death or injury is due to gross negligence on the supplier's part. "Gross negligence" in relation to an act or omission, means doing the act or omitting to do an act with reckless disregard, with or without consciousness, for the consequences of the act or omission. See regulation 5 of the Australian Consumer Law and *Fair Trading Regulations 2012 (Vic)* and section 22(3)(b) of the Australian Consumer Law and *Fair Trading Act 2012 (Vic)*.

**Exclusion of rights under the Australian Consumer Law (Victoria):** By signing this form, you agree that the liability of MA, the Motorcycling Organisations and the Indemnites for any death or personal injury (as defined in the Australian Consumer Law and *Fair Trading Act 2012*) that may be suffered by you (or a person from whom or on whose behalf you are acquiring the services) resulting from the supply of recreational services is excluded.

#### For recreational services or activities provided in ACT, Queensland or Tasmania:

##### For recreational services to which the Australian Consumer Law (Australian Capital Territory), Australian Consumer Law (Queensland) or Australian Consumer Law (Tasmania) applies:

By signing this application to compete form and declaration, I acknowledge that where I am a consumer of recreational services, as defined by any relevant law, certain terms and rights usually implied into a contract for the supply of goods or services may be excluded. I acknowledge that these implied terms and rights and any liability of MA, the Motorcycling Organisations and the Indemnites flowing from them, are expressly excluded to the extent possible by law, by this application to compete form and declaration. To the extent of any liability arising, the liability of MA, the Motorcycling Organisations and the Indemnites will, at the discretion of MA, the Motorcycling Organisations and the Indemnites, be limited in the case of goods, to the replacement, repair or payment of the cost of replacing the goods and in the case of services, the resupply of the services or payment of the cost of having the services supplied again. For the avoidance of doubt, this exclusion does not exclude liability for recklessness as defined by any relevant law.

#### For recreational services or activities provided in South Australia:

##### For recreational services to which the Australian Consumer Law (South Australia) applies:

**Your rights:** Under sections 60 and 61 of the Australian Consumer Law (SA), if a person in trade or commerce supplies you with services including recreational services, there is:

- (a) statutory guarantee that those services will be rendered with due care and skill; and
- (b) statutory guarantee that those services, and any product resulting from those services, will be reasonably fit for the purpose for which the services are being acquired (as long as that purpose is made known to the supplier); and
- (c) a statutory guarantee that those services, and any product resulting from those services, will be of such a nature, and quality, state or condition, that they might reasonably be expected to achieve the result that the consumer wishes to achieve (as long as that wish is made known to the supplier or a person with whom negotiations have been conducted in relation to the acquisition of the services).

**Excluding, restricting or modifying your rights:** Under section 42 of the *Fair Trading Act 1987 (SA)*, the supplier of recreational services is entitled to ask you to agree to exclude, restrict or modify his or her liability for any personal injury suffered by you or another person for whom or on whose behalf you are acquiring the services (a third party consumer). If you sign this form, you will be agreeing to exclude, restrict or modify the supplier's liability with the result that compensation may not be payable if you or the third party consumer suffer personal injury.

**Important:** You do not have to agree to exclude, restrict or modify your rights by signing this form. The supplier may refuse to provide you with the services if you do not agree to exclude, restrict or modify your rights by signing this form. Even if you sign this form, you may still have further legal rights against the supplier. A child under the age of 18 cannot legally agree to exclude, restrict or modify his or her rights. A parent or guardian of a child who acquires recreational services for the child cannot legally agree to exclude, restrict or modify the child's rights. Agreement to exclude, restrict or modify your rights: I agree that the liability of MA, the Motorcycling Organisations and the Indemnites for any personal injury that may result from the supply of the recreational services that may be suffered by me (or a person for whom or on whose behalf I am acquiring the services) is excluded.

#### **Definitions:**

- (a) Recreational services are services that consist of participation in - • sporting activity or similar leisure-time pursuit; or • any other activity that involves a significant degree of physical exertion or risk and is undertaken for the purposes of recreation, enjoyment or leisure.
- (b) Personal injury is bodily injury and includes mental and nervous shock and death.
- Further information: Further information about your rights can be found at [www.ocba.sa.gov.au](http://www.ocba.sa.gov.au)

**For recreational services or activities provided in Northern Territory:**

**For recreational services to which the Australian Consumer Law (Northern Territory) applies:**

By signing this form, I agree that the provisions of Part 3.2, Division 1, sub-division B of the Australian Consumer Law (NT) do not apply to the services provided to me, and MA, the Motorcycling Organisations and the Indemnities incurs no liability with respect to death or personal injury for a failure to comply with a guarantee under that sub-division in relation to supply of these recreational services. By signing this document I acknowledge that I have been made aware of the general effect of this exclusion, restriction or modification, have had a reasonable opportunity to consider whether or not to enter into this contract on that basis and have decided to enter into the contract.