



PARTICIPATION DEED

PLEASE NOTE: This is an important document which affects your legal rights and obligations.

Use of the Equipment and participation in the Event are potentially hazardous and may lead to injury, death, damage and loss. Your use of the Equipment and participation in the Event are subject to the terms and conditions set out in this Deed.

This Deed includes assumptions of risk, and limitations and exclusions of liability, including the provisions **highlighted** in the body of the document.

Please read the Deed, including the highlighted provisions, carefully and do not sign the Deed unless you are satisfied that you understand it.

Participant Details

Participant Name:

Driver's Licence number:

Address:

Mobile Number:

Email Address:

Emergency Contact Number:

Emergency Contact Name:

Event Details

Event Name: The Ride Back to Alice

Event Date(s):

Event Description (select one):

- event or occasion organized by Victory where Participant uses Equipment provided by Victory
- event or occasion organized by Victory where Participant uses his or her own Equipment
- test ride / test drive event (Participant evaluates performance of Victory-owned Equipment)
- Other: Please describe:

Inspection Report (for loaned Equipment only)

Describe visible damage to Equipment:

Office Use

Date:

Created by:

Rep:

Date Out: _____ Time Out: _____

Stock #:

Rego:

Return Due: _____

Dept:

Date In: _____ Time In: _____

Permitted Area(s):

PARTICIPATION DEED TERMS AND CONDITIONS

IMPORTANT NOTICE REGARDING YOUR CONSUMER RIGHTS

As a consumer, you have certain rights under consumer protection legislation, including the Competition and Consumer Act 2010 (Cth) and equivalent State legislation (referred to below as "Consumer Rights").

Your Consumer Rights include statutory guarantees that any goods supplied to you will be of acceptable quality, match their description and be fit for any purpose made known to the supplier, and that any services supplied to you will be carried out with reasonable care and skill. Manufacturers of goods also have obligations in respect of safety defects in goods. For more information about your Consumer Rights, contact the Australian Competition and Consumer Commission or State/Territory Fair Trading Authorities.

Except as set out in clause 6, or as permitted by law, nothing in this Deed is intended to exclude, restrict or modify your Consumer Rights.

TERMS AND CONDITIONS:

1. DEFINITIONS

In this Participation Deed:

Affiliates means:

- a) Victory's distributors and dealers;
- b) companies related to Victory;
- c) any other promoters, organisers, sponsors, coordinators, instructors, consultants, officials, and fire, rescue and medical personnel, connected with the Event;
- d) all others who give recommendations, directions or instructions, or engage in any risk evaluation or loss control activities in connection with the Event; and
- e) the officers, directors, employees and agents of Victory and of those identified in (a) to (d) above.

Claims means claims, demands, rights and causes of action of any kind arising at any time.

Event means the event described in the "Event Details" section.

Equipment includes any vehicle or equipment used by the Participant in an Event, including the equipment loaned by Victory to the Participant specified in the "Equipment Details" section above.

Heirs means the Participant's heirs, personal representatives, administrators, executors, successors and assigns.

Participant or **You** or **Your** means the person named as Participant in the "Participant Details" section above.

Victory means Victory Motorcycles Australia Pty Ltd (ABN 15 131 150 966).

Warranties means the warranties given and representations made in clause 4 of this Deed.

2. PURPOSE

The Participant has requested that Victory allow him/her to use the Equipment and/or participate in the Event. Victory agrees to allow the Participant to use the Equipment and/or participate in the Event on the terms and conditions of this Deed.

3. ACKNOWLEDGMENT BY PARTICIPANT

The Participant acknowledges and agrees that:

- a) the Participant's presence at, participation in, and/or activities at the Event may expose the Participant to danger either from incidents caused by the Participant or by another person, or by the nature of the activities conducted in preparation for or as part of the Event;
- b) using the Equipment can be dangerous and that accidents caused by the Participant or by another person which cause death, injury, loss and/or damage can and do happen;

- c) **by signing this Deed, the Participant voluntarily accepts and assumes the risks involved in participating in the Event and using the Equipment, including those described above;**
- d) the Participant has a responsibility to take all reasonable precautions and care to prevent the risk of:
 - i. harm to the Participant and others; and
 - ii. damage to the property of the Participant and the property of others (including the Equipment);
 in connection with the Participant's participation in and attendance at the Event;
- e) the Participant is responsible for the protection and safety of the Participant and the Equipment in connection with the Event;
- f) **any liability or responsibility for infringements and charges (including traffic infringements, parking infringements and other charges) that may be incurred by the Participant during an Event is and remains a liability and responsibility of the Participant;**
- g) in relation to an Event where the Participant uses Equipment loaned by Victory, the Participant further acknowledges and agrees that:
 - i. the external damage listed under "Inspection Report" above was shown to the Participant. The Participant has been given an opportunity to inspect the Equipment, and did not observe any further external damage;
 - ii. the Participant will return the Equipment to Victory in the same condition as the Equipment was given to the Participant (reasonable wear and tear excepted);
 - iii. **if the Equipment is lost or stolen while in the Participant's possession or control, or otherwise not returned to Victory as required by this Deed, the Participant must reimburse to Victory the full cost of the Equipment, unless:**
 - A. **Victory is able to claim on its insurance in respect of the loss or theft, in which case the Participant will be liable to reimburse to Victory any excess payable by Victory in respect of its insurance claim; or**
 - B. **the loss or theft occurred as a result of Victory's negligence or reckless misconduct, in which case the Participant shall not be liable to the extent that the loss or theft arose as a result of Victory's negligence or reckless misconduct;**
 - iv. **if Victory reasonably considers that any damage was caused to the Equipment while it was in the Participant's possession or control, the Participant must reimburse to Victory the costs of any repair required to the Equipment, up to a maximum of \$2,000; and**
 - v. the Participant will promptly cease using and return the Equipment to Victory:
 - A. upon conclusion of the Event; or
 - B. by the "Return Due" date nominated on the first page of this Deed, if sooner; or
 - C. otherwise, promptly, at Victory's or its nominee's request.

4. WARRANTIES BY PARTICIPANT

The Participant warrants and represents to Victory that:

- a) the information provided by the Participant in the Participant Details section is accurate;
- b) the Participant is over the age of 18, and is licensed to use the Equipment (if required by law);
- c) the Participant is not subject to any medical disability, impairment or condition which would affect the Participant's ability to safely participate in the Event;
- d) the Participant will at all times while riding or driving a vehicle in connection with the Event wear a properly fitted, approved crash helmet which complies with AS1698 and other appropriate protective garments, including any mandatory protective garments;
- e) the Participant will obey all applicable traffic laws when using the Equipment and participating in the Event;
- f) the Participant has attended any safety briefing and/or instruction offered by or on behalf of Victory in relation to the use of the Equipment or participation in the Event prior to signing this Deed and has understood all aspects of the safety briefing and/or instruction;
- g) the Participant will only use the Equipment for the purpose for which it was designed and in accordance with the instructions given by or on behalf of Victory to the Participant at any time including, but not limited to, those given upon collection of the Equipment and during any safety

- briefing;
- h) the Participant will not load the Equipment beyond its specific carrying capacity or tamper with or interfere with the Equipment in any way or operate the Equipment in a manner which may cause the Equipment's specified limitations to be exceeded in breach of the instructions given by or on behalf of Victory to the Participant;
- i) the Participant will co-operate with any investigation into an accident or an incident which occurs in connection with an Event or the Participant's use of Victory-owned Equipment; and
- j) the Participant will use the Equipment safely and will not ride / drive any vehicle, or otherwise use the Equipment, recklessly or whilst under the influence of alcohol or drugs or while suffering from any medical condition which may impact on the Participant's ability to safely use the Equipment.

The Participant further warrants and represents, in relation to Equipment owned by Victory, that the Participant:

- k) will not carry any passengers on the Equipment, unless the Participant obtains the prior written consent of Victory and the passengers have also signed this Deed;
- l) will not allow any third party to use the Equipment without Victory's prior written consent;
- m) will not ride / drive the all terrain vehicle outside of the Permitted Areas which are set out under the heading "Office Use" above;
- n) will comply with all relevant acts, regulations and laws relating to the use of the Equipment and the Participant's participation in the Event; and
- o) will not attempt to service or repair or modify the Equipment in any manner whatsoever.

5. CONSEQUENCES OF NON-COMPLIANCE

The Participant understands that if the Participant does not comply with this Deed, or if any of the Warranties provided are or become untrue, then Victory or its nominee may:

- a) **withdraw the Participant's permission to use any Equipment provided by Victory;**
- b) **not in the future permit the Participant to use Victory-owned equipment;**
- c) **bring legal action against the Participant;**
- d) **rely on this Deed in bar of any proceedings commenced by, or taken on behalf of, the Participant in connection with the matters referred to in this Deed and/or**
- e) **take other action that they consider appropriate.**

6. LIABILITY

The Participant agrees that:

- a) **if the Participant is a consumer of "recreational services" (as defined by any relevant law), the Participant will not make a claim against Victory or its Affiliates for any mental or physical injury (including death) that the Participant suffers as a result of a breach of Victory' or its Affiliates' statutory obligation to provide services with due care and skill, unless that injury is caused by their reckless conduct; and**
- b) **the Participant will reimburse Victory and its Affiliates for all expenses (including all legal costs), losses and liabilities they incur relating to:**
 - i. **any Claim the Participant or its Heirs make against any of them:**
 - A. **when the Participant has agreed not to make such a Claim; or**
 - B. **to the extent that the Claim relates to the Participant's negligent or reckless conduct, or intentional misconduct, or breach of this Deed (including breach of the Warranties);**
 - ii. **any Claim someone else makes against any of them to the extent that the Claim relates to the Participant's negligent or reckless conduct, or intentional misconduct, or breach of this Deed; and**
 - iii. **the seizure of any Equipment owned by Victory which is in the Participant's possession, custody or control as a result of the Participant's negligence, recklessness, intentional misconduct or breach of this Deed.**

7. PPSA

In respect of Equipment loaned by Victory under this Agreement:

- a) The Participant understands and agrees that the Equipment will remain the sole and absolute property of Victory at all times.
- b) Victory may register on the Personal Property Securities Register any and all Security Interests granted under this Deed. The Participant waives any right the Participant may have to receive from Victory a copy of any financing statement, financing change statement or verification statement registered or received by Victory in respect of the Security Interests created under this Deed.
- c) The Participant agrees to do all things necessary, including executing all documents that Victory requires and providing all relevant information and cooperating fully with Victory, at the Participant's own expense, to enable Victory to register a financing statement on the Personal Property Securities Register to ensure that at all times Victory has a perfected Security Interest in respect of all Security Interests created under this Deed, and wherever possible a Purchase Money Security Interest.
- d) The Participant must not grant any Security Interest in respect of the Equipment which would rank equally with, or in priority to, a Security Interest held by Victory over the Equipment.
- e) The Participant agrees that, to the extent permitted by law, sections 95, 96, 123, 125, 126, 128, 129, 130, 132(3)(d), 132(4), 134(1), 135, 142 and 143 of the *Personal Property Securities Act 2009* (Cth) shall not apply on the enforcement by Victory of any Security Interest created or provided for by this Deed.
- f) For the purposes of this clause 7, the terms "financing statement", "financing change statement", "Personal Property Securities Register", "Purchase Money Security Interest", "Security Interest" and "verification statement" have the meanings given in the *Personal Property Securities Act 2009* (Cth).

8. PRIVACY

Victory complies with the Privacy Act 1988 and its own Privacy Policy in relation to the collection, use, disclosure, storage and handling of Your personal information. A copy of Victory's Privacy Policy is located at www.victorymotorcycles.com.au / www.indianmotorcycle.com.au If You do not provide the personal information collected in this Deed, You may not be able to participate in the Event or to use the Equipment.

Victory collects Your personal information primarily for internal record-keeping purposes. However, the emergency contact details provided may be used by Victory to contact an appropriate person if You are involved in an accident or incident while participating in the Event. If You elect to receive marketing or promotional material from Victory below, Victory may also use the information to send You marketing communications.

Victory will not sell Your information to any other organisation, but may disclose Your personal information to its Affiliates, third party service providers (including finance companies and external warranty companies) and/or other unaffiliated third parties (including government agencies) for the purposes set out above. Please note that Your personal information may be disclosed to entities outside of Australia, including in countries such as the USA, in accordance with Victory's privacy policy.

You have a right to request access to, or the correction of, any of Your personal information held by Victory. Victory's Privacy Policy also contains information about how You can complain about a breach of the Australian Privacy Principles or a registered APP code (if any) that binds Victory and how Victory will deal with such a complaint. For more information regarding the information Victory hold concerning you, please contact Victory's Privacy Officer on 03 9394 5610.

Please choose from the following options in relation to your position regarding the receipt of future marketing or promotional material from Victory :

- I do not wish to receive any future marketing or promotional material from Victory; or
- I would like to receive future marketing or promotional material from Victory, including by email, telephone and SMS, until I withdraw this consent.

9. EXECUTION

I, the Participant, have read and understood the terms and conditions of this Deed prior to signing it. I am entering into this Deed on my own behalf, and on behalf of my Heirs.

Signature of Participant: _____

Name of Witness: _____

Signature of Witness: _____ **Date:** _____