

# ★ BLACK EAGLE ESCAPES ★

## LIABILITY RELEASE AND ASSUMPTION OF RISK AGREEMENT

Please consider the following terms and conditions, which form a legally binding contract between you (the "Participant", "you") and Black Eagle Escapes Pty Ltd ("Black Eagle Escapes", "we", "us"). If you do not agree to be bound by these terms you will not be able to participate in the motorbike tour (the "Tour"). In consideration for your enrolment in the Tour you agree:

### Minimum entry requirements

1. To participate in the Tour, Participants must:

- a) be at least 18 years old; OR be at least 14 years old, have written consent from parent or guardian, (parent or guardian MUST also participate at the tour)
- b) be in a fit and healthy physical condition,
- c) weigh less than 100 Kg,
- d) have a blood alcohol limit of under 0.05,
- e) not be under the influence of drugs or other substances may affect your concentration, coordination and reactions,
- f) not be in any stage of pregnancy,
- g) wear safety riding gear (provided) and
- h) wear enclosed shoes and long pants,

2. We may seek verification of the above entry requirements in whatever manner we see fit.

3. You acknowledge that we may deny you a right to carriage, if you do not satisfy the minimum entry requirements, behave inappropriately, endanger yourself or others.

### Obligations

4. During the Tour, Participants must:

- a) wear protective equipment, including a helmet, long pants and enclosed shoes;
- b) permit Black Eagle Escapes to arrange medical treatment and emergency evacuation services as we deem necessary for your safety and agree that you are liable for any associated costs; and
- c) comply with all of our reasonable instructions, including any pre-ride briefing rules. Failure to comply with a reasonable instruction may result in your participation in the Tour being terminated immediately.

### Changes

5. At our sole and full discretion we reserve the right to:

- a) make changes to the itinerary without notice if there are safety or logistical reasons for a change, and in such case you will not receive a refund; and
- b) postpone or cancel the Tour if we consider it to be unsafe to proceed. In such circumstances Black Eagle Escapes will provide you with as much notice as reasonably possible. You will have the choice to transfer to another tour within 6 months or receive 50% refund of your payment.

### Risk warning

6. You acknowledge and agree that motorcycle riding, including as a passenger, is an inherently dangerous activity. The inherent risks involved in the Tour include, but are not limited to:

- a) falling off the bike;
- b) collision with vehicles, objects, animals or people; and
- c) suffering from the effects of wind, rain and other weather conditions.

7. The possible injuries of harm from such risks include, but are not limited to, death, physical or mental injury and property damage.

8. You acknowledge that the assumption of risk and warning above constitutes a 'risk warning' in accordance with the Civil Liability Act 2002 (NSW).

### Liability exclusions

9. There are several statutory guarantees that apply to the supply of goods and services. Nothing in these terms and conditions excludes, restricts or modifies any term, condition, warranty, guarantee, right or remedy including but not limited to a guarantee under the Australian Consumer Law which cannot lawfully be excluded, restricted or modified.

10. To the extent permitted by s139A of the Competition and Consumer Act (2010) (Cth) and the Civil Liability Act 2002 (NSW), you acknowledge and agree that we exclude all liability in connection with the Tour, being a recreational service, for:

- 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; or

- 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 you or the community;
  - ii. that may result in harm or disadvantage to you or the community, and the application of any express or implied term that any services will be provided with due care and skill is hereby excluded. This exclusion of liability does not apply where significant personal injury is caused by our reckless conduct.

**11.** By signing these terms you acknowledge and agree that we exclude all liability for damages for any harm (including but not limited to personal injury or death, damage to property and economic loss and whether direct, indirect, special or consequential) from a failure to exercise reasonable care and skill, regardless of whether the claim is brought in tort (including in negligence), in contract, under statute or otherwise, where such liability results from breach of an express or implied warranty that the services will be rendered with reasonable care and skill.

**12.** Except as expressly included in these Terms and Conditions, all implied terms, conditions, warranties, rights or other additional obligations that can be lawfully excluded are excluded from these Terms and Conditions.

**Release, Indemnity and General Matters**

**13.** It is your responsibility to ensure you have obtained suitable insurance cover to indemnify yourself against any loss or damage to personal belongings and for personal injury, accident or illness before you participate on the Tour.

**14.** You release Black Eagle Escapes, its owners, affiliates, distributors, operators, employees, agents and officers from all claims, loss, damage, liability, cost and expense associated with your presence at, and participation in, the Tour.

**15.** You indemnify Black Eagle Escapes, its owners, affiliates, distributors, operators, employees, agents and officers against any claim, loss, damage, liability, cost and expense that may be incurred or sustained by us in connection with any act, matter or thing done, permitted or omitted to be done by you or which was in any way connected with your involvement in the Tour.

**16.** By signing these terms you acknowledge and agree that we have the authority to use and reproduce any photograph or video taken of you for promotional and marketing purposes including social media, display and sale by or on behalf of Black Eagle Escapes without any compensation to you. Photographs and videos acquired from Black Eagle Escapes remain property and copyright of Black Eagle Escapes, they must not be use by you for any commercial purpose without Black Eagle Escapes prior written permission.

**17.** This contract is governed by the laws of NSW and the Participant submits to the non-exclusive jurisdiction of the courts of NSW.

**18.** The information supplied in this document is personal and confidential. It will not be used for any marketing or promotional purposes, and will not be sold or distributed to any third party. This document will only be used for the purposes of confirming your participation or to defend any action.

**Name:** .....

**Signature:** .....

**Date:** .....

**Emergency Contact**

**Name:** .....

**Relationship:** .....

**Phone Number:** .....

