

73MOTO Great Ocean Road Motorcycle Rentals

Rental Terms and Conditions

1 Introduction

- 1.1 Your contract to hire a Motorcycle from 73MOTO Great Ocean Road Motorcycle Rentals (**Rental Contract**) consists of:
- (a) the agreement (**Rental Agreement**) You have signed to hire the Motorcycle from Us; and
 - (b) these rental Terms and Conditions (**Terms and Conditions**).
- 1.2 The Rental Contract is governed by the laws of the state of Victoria and You agree that courts in that state have non-exclusive jurisdiction to determine any dispute that arises between You and Us.
- 1.3 The Australian Consumer Law applies to the Rental Contract and it provides You with rights that are not excluded, restricted or modified by the Rental Contract and any provision in this contract is subject to the specific protections and guarantees in that and any corresponding Federal, State or Territory legislation.
- 1.4 We may use electronic signatures as a means of entry into the Rental Contract. When You insert an electronic signature You consent to the use of this means of acknowledgment and acceptance of these Terms and Conditions and Your obligations under the Rental Contract.

2 Prehire safety induction

At the Start of the Rental We will conduct a short induction to make sure You are familiar with the handling of the Motorcycle and its controls. This may require You to ride the Motorcycle for a short test drive so that We are satisfied You have the competence to safely ride the Motorcycle during the Rental Period. As safety is Our principal concern, if in Our opinion You do not have the skill or competence to ride the Motorcycle We may decline the rental. If that should occur, any prepaid charges will be refunded in full.

3 Who may drive the Motorcycle?

IMPORTANT NOTICE

A breach of any part of this clause 3 is a Major Breach of the Rental Contract. See clause 16 for further details.

- 3.1 Only You or an Authorised Driver can drive the Motorcycle. Allowing anyone who is not an Authorised Driver to drive constitutes a Major Breach of the Rental Contract that excludes You and any Authorised Driver from all entitlement to Damage Cover indemnity under clause 11 of these Terms and Conditions.
- 3.2 We set a minimum and maximum age limit for those renting Our Motorcycles. You and any Authorised Driver **must** be at least 21 and not over 75 years of age and have no less than 12 months driving experience, unless We have agreed to a variation of that restriction before the Start of the Rental and it is shown in the Rental Agreement.
- 3.3 You and any Authorised Driver **must** also have a valid motorcycle licence to drive the Motorcycle which is:
- (a) issued in an Australian state or territory or an international licence (with a valid International Driving Permit or an approved translation into English if the licence is not issued in English); and
 - (b) not subject to any restriction or condition.
- 3.4 Learner drivers and provisional and probationary licence holders are not acceptable and **must not** drive the Motorcycle.
- 3.5 The Motorcycle **must not** be driven if Your licence, including a motor vehicle licence, or the licence of any Authorised Driver has been cancelled within 2 years of the date of the Rental Agreement.
- 3.6 The Motorcycle **must never** be driven by You or an Authorised Driver who has provided a false or misleading name, age, address or driver's licence.

4 Prohibited Use

IMPORTANT NOTICE

A breach of any part of this clause 4 is a Major Breach of the Rental Contract. See clause 16 for further details.

- 4.1 The Motorcycle **must not** be driven by You or any Authorised Driver:
- (a) whilst intoxicated or under the influence of drugs or alcohol or with a blood alcohol content or level of drugs present in blood, urine or oral fluid that exceeds the limit set by law;
 - (b) recklessly or dangerously; or
 - (c) whilst the Motorcycle is damaged or unsafe.
- 4.2 You and any Authorised Driver **must not**:
- (a) fail or refuse to undergo any breath, blood, urine or oral fluid test or drug impairment assessment;
 - (b) use the Motorcycle:
 - (i) for any illegal purpose;
 - (ii) to move dangerous, hazardous, inflammable goods or substances that pollute or contaminate, in quantities above that used for domestic purposes;

- (iii) to propel or tow another vehicle or a trailer;
- (iv) to carry illegal drugs or substances;
- (v) in connection with the motor trade for experiments, tests, trials or demonstration purposes; or
- (vi) in an unsafe or un-roadworthy condition.

- 4.3 You and any Authorised Driver **must not**:
- (a) damage the Motorcycle deliberately or recklessly or allow anyone else to do so;
 - (b) modify the Motorcycle in any way;
 - (c) sell, rent, lease or dispose of the Motorcycle; or
 - (d) register or claim to be entitled to register any interest in the Motorcycle under the Personal Property Securities Act 2009.

- 4.4 You and any Authorised Driver **must not** use the Motorcycle to carry:
- (a) passengers for hire, fare or reward or for rideshare purposes;
 - (b) more than one pillion passenger; or
 - (c) any load that exceeds the limits for which the Motorcycle was designed, constructed, registered or licenced.

- 4.5 You and any Authorised Driver **must not** use a mobile phone or a GPS unit whilst the Motorcycle is in motion or stationary; but not parked unless the body of the phone or GPS unit is affixed to the Motorcycle and the phone or GPS unit is not being held or touched at any time whilst being used.

5 Prohibited areas of use

IMPORTANT NOTICE

A breach of any part of this clause 5 is a Major Breach of the Rental Contract. See clause 16 for further details.

- 5.1 The Motorcycle **must never** be driven:
- (a) on an Unsealed Road, unless:
 - (i) it is well maintained; and
 - (ii) it is for the sole purpose of accessing accommodation or recognised tourist attractions;
 - (b) Off Road; or
 - (c) above the snow line between 1 May and 31 October or in any area where snow has fallen or is likely to fall.

- 5.2 The Motorcycle **must not** be used in any area that is prohibited by Us. Prohibited areas include:

- (a) roads that are prone to flooding or are flooded;
- (b) beaches, streams, rivers, creeks, dams and floodwaters;
- (c) any road where the police or an authority has issued a warning;
- (d) any road that is closed; and
- (e) any road where it would be unsafe to drive the Motorcycle.

- 5.3 The Motorcycle must never be driven or taken onto any island that is off mainland Australia, except Phillip Island, unless We have given Our prior written permission prior to the Start of the Rental and it is noted on the Rental Agreement.

6 Your obligations

IMPORTANT NOTICE

A breach of any of clauses 6.2, 6.3, 6.4, 6.5 or 6.7 is a Major Breach of the Rental Contract. See clause 16 for further details.

- 6.1 At the Start of the Rental You **must** also inspect the Motorcycle to make sure that any pre-existing damage is noted and shown in the Rental Agreement.
- 6.2 You and any Authorised Driver **must** make sure that the Motorcycle is locked when not in use or unattended and the keys **must** be kept in Your possession, or that of any Authorised Driver, at all times and are never left in the ignition when the Motorcycle is unattended.
- 6.3 You and any Authorised Driver **must** take reasonable care of the Motorcycle by:
- (a) preventing it from being damaged;
 - (b) making sure that it is protected from the weather;
 - (c) maintaining the engine oil and coolant levels and tyre pressures and doing so on no less than a weekly basis;
 - (d) using the correct fuel type; and
 - (e) making sure it is not overloaded.
- 6.4 You **must** inform Us immediately if:
- (a) a warning light or fault message appears;
 - (b) You see or become aware of low oil or coolant levels; or

(c) the Motorcycle develops any fault during the Rental Period.

If You fail to notify Us and continue to use the Motorcycle You will be responsible for any Damage or Third Party Loss.

6.5 You **must not** let anyone else repair or work on the Motorcycle or tow or salvage it without Our prior written authority to do so.

6.6 Where We have given You Our prior authority to repair the Motorcycle You **must** keep and produce to Us the original tax invoices and receipts for any repairs, towing or salvage and You will be reimbursed only if these expenses have been authorised by Us. Any entitlement to reimbursement is subject to there being no Major Breach of the Rental Contract.

6.7 You **must not** leave the Motorcycle unattended following an Accident and before the arrival of a tow or salvage operator.

7 Rental Period, costs and charges

7.1 The Rental Agreement shows:

- (a) the Rental Period for which You have hired the Motorcycle; and
- (b) the Rental Charges.

7.2 At the Start of the Rental and before collecting the Motorcycle You must pay the anticipated Rental Charges and the Security Bond of \$2,500.

7.3 The Security Bond will be used by Us as security for the performance of Your obligations and liabilities under the Rental Contract and is fully refundable to You provided that:

- (a) all amounts due to Us under the Rental Contract have been paid, including toll road charges and refuelling costs;
- (b) the Motorcycle has been returned to the Rental Location at the date and time set in the Rental Agreement;
- (c) there is no Damage or Third Party Loss;
- (d) the exterior and interior of the Motorcycle are clean;
- (e) the accessories hired pursuant to clause 8.1 are returned clean and in the same condition as at the Start of Rental, subject to reasonable wear and tear;
- (f) the Motorcycle has a full tank of fuel; and
- (g) there has not been a Major Breach of the Rental Contract,

We reserve the right to retain all or part of the Security Bond if there is a breach of any of these conditions.

7.4 You and any Authorised Driver **must** pay all tolls, speeding and traffic fines and infringements as well as any fines or charges imposed for parking or using the Motorcycle or release of the Motorcycle if it has been seized by a regulatory authority.

7.5 Return of the Motorcycle

- (a) You **must** return the Motorcycle:
 - (i) to the Rental Location;
 - (ii) on the date and by the time shown in the Rental Agreement;
 - (iii) in the same condition it was in at the Start of the Rental, fair wear and tear excepted; and
 - (iv) with a full tank of fuel.
- (b) If You fail to return the Motorcycle, We may terminate the Rental Contract and if the location of the Motorcycle is known, recover it by lawful means or if it is unknown, after making reasonable attempts to contact You, report the Motorcycle as stolen to the Police.
- (c) If the Motorcycle is returned to Us early there is no entitlement to a refund.
- (d) If You return the Motorcycle:
 - (i) with less than a full tank of fuel a refuelling charge of \$55 (including GST) plus the cost of the fuel, will apply;
 - (ii) more than one hour after the date and time set for its return in the Rental Agreement, We will charge You \$25 per hour up to one full day's rental and a further full day's rental at the standard rate for each 24 hour period or part thereof until the Motorcycle is returned to Us; or
 - (iii) at any time outside Our normal business hours You must pay for the daily Rental Charges and all Damage until the Rental Location next opens for business unless We have agreed to an after business hours drop off and it is shown on the Rental Agreement.

7.6 End of the Rental

At the End of the Rental You **must** pay:

- (a) the balance of the Rental Charges (if any);
- (b) the Damage Excess if there is Damage or Third Party Loss as a result of an Accident or the Motorcycle is stolen;
- (c) any costs We incur in reinstating the Motorcycle to the same condition it was in at the Start of the Rental, fair wear and tear excluded;
- (d) for all Damage arising from a Major Breach of the Rental Contract;
- (e) for all Underbody Damage; and
- (f) for any Damage caused by the immersion of the Motorcycle in water.

7.7 Credit card authority

If any amount is due to Us or remains unpaid, including:

- (a) for tolls;
- (b) speeding and traffic fines and infringements;
- (c) fines or charges imposed for parking; or
- (d) the Damage Excess payable under clauses 11.1 and 11.2,

You authorise Us to debit Your credit card with that amount within a reasonable time after the End of the Rental.

7.8 Interest on outstanding amounts

Amounts owing to Us pursuant to clause 7.6 accrue interest at the rate of 10% per annum commencing 14 days after the End of the Rental.

7.9 Default in payment

If You default in the payment of any moneys owed to Us under the Rental Contract, You authorise Us to provide information of that default to a credit reporting body and to obtain an up to date consumer credit report on You. Personal information may be used and disclosed by the credit reporting body in accordance with the Privacy Act to create or maintain a credit information file containing information about You, including defaults in excess of 60 days and the debt owed to Us.

8 Accessories for hire

8.1 At extra cost, You may also hire accessories such as helmets, gloves, jackets and goggles.

8.2 You will be charged the replacement cost if any of the accessories are missing or not returned in the same condition as at the Start of Rental, subject to fair wear and tear.

9 Servicing

9.1 It is Our responsibility to keep the Motorcycle regularly serviced.

9.2 If the Rental Period is more than 30 days, on the 30th day and monthly thereafter You **must** take a photo of the odometer and text it to **0467 528 800**.

9.3 Once the Motorcycle has travelled 5,000 kilometres during the Rental Period You **must** contact Us on **0467 528 800** so that We can arrange for You to take the Motorcycle to Our nominated service agency at a time and on a date and at a location as We shall mutually agree. If You fail to attend a service appointment any charges We incur will be passed onto You.

9.4 We will pay for the service, parts, tyres and any other issues with the Motorcycle providing that these issues were not caused by You or any Authorised Driver.

IMPORTANT NOTICE

A breach of clause 9.5 is a Major Breach of the Rental Contract. See clause 16 for further details.

9.5 A failure to have the Motorcycle serviced when it has reached the 5,000 kilometre specified in clause 9.3 is a Major Breach of the Rental Contract meaning there is no Damage Cover and You will then be responsible for all Damage and Third Party Loss.

10 Toll charges

10.1 An electronic tag (**e-tag**) is not fitted to the Motorcycle and it is Your responsibility to fit an e-tag to the Motorcycle or purchase a day pass for payment of tolls when using the Motorcycle on toll roads.

10.2 If You fail to do so and We are required to nominate You as the responsible party We will charge You an administrative fee for each nomination.

11 Damage Cover

11.1 Damage Excess payable

- (a) Standard Damage Cover is included in the Rental Charges. Subject to these Terms and Conditions, We will indemnify You and any Authorised Driver for the theft, any Damage or Third Party Loss but You must pay up to the Damage Excess shown on the Rental Agreement for each Accident or theft claim unless:
 - (i) We agree You were not at fault; and
 - (ii) the other party was insured and their insurance company accepts liability.
- (b) The Damage Excess payable under clauses 11.1(a) and 11.2 will be charged to Your credit card:
 - (i) for single vehicle Accidents, after a repairer's estimate or tax invoice verifying the amount charged for Damage has been sent to You;
 - (ii) if the Motorcycle has been stolen, after We have made reasonable enquiries and in Our opinion it is unlikely the Motorcycle will be recovered; and
 - (iii) for Accidents in which there is also Third Party Loss, after:
 - (A) a reasonable estimate of the Third Party Loss has been made;

- (B) a repairer's estimate or tax invoice verifying the amount charged for Damage has been obtained; and
- (C) all documents verifying the Third Party Loss and Damage have been sent to You.

11.2 **Damage Excess reduction**

At the Start of the Rental, You may reduce the Damage Excess to \$3,500 by payment of an additional daily fee as shown on the Rental Agreement. This option is only available if You and any Authorised Driver is aged 25 years or older.

11.3 **Claims Administration fee**

All Accident, attempted theft and theft claims will incur a claims administration fee in addition to the Damage Excess liability. This fee is to compensate Us for the labour and associated costs with processing Your claim.

12 **Damage Cover Exclusions**

12.1 There is no Damage Cover, and You and any Authorised Driver are liable for:

- (a) Damage or Third Party Loss arising from:
 - (i) a Major Breach of the Rental Contract; or
 - (ii) the use of the Motorcycle by any driver who is not an Authorised Driver or who is less than 21 or more than 75 years of age;
- (b) Underbody Damage; and
- (c) Damage caused by immersion of the Motorcycle in water.

12.2 There is also no Damage Cover for:

- (a) the full cost of replacing or repairing any accessories supplied by Us including, but not limited to GPS units, lost keys, keyless start and remote control devices; or
- (b) personal items that are left in or stolen from the Motorcycle or for loss or damage to property belonging to or in the custody of:
 - (i) You;
 - (ii) any relative, friend or associate of Yours ordinarily residing with You or with whom You ordinarily reside;
 - (iii) any relative, friend or associate of an Authorised Driver; or
 - (iv) Your employees.

13 **Cancellation**

13.1 If:

- (a) Your booking is cancelled within 24 hours prior to the Start of the Rental; or
- (b) You fail to notify Us of Your intended cancellation prior to the Start of the Rental and fail to pick up the Motorcycle,

You will be charged the Rental Charges for the Rental Period as booked unless We are able to rent the Motorcycle to another renter for an equivalent term and rate.

13.2 A cancellation is not effective until acknowledged and confirmed by Us.

14 **Accidents or breakdowns**

14.1 We will provide You with a Motorcycle that is of acceptable quality and in good working condition taking into account the age of the Motorcycle but breakdowns do occur. Twenty four hour roadside assistance is provided free of charge for breakdowns (but not for Accidents) and if the Motorcycle breaks down during the Rental Period You **must** contact Us on **0467 528 800** to arrange assistance. We will recover and repair the Motorcycle as soon as possible but if it cannot be repaired We will use Our best endeavours to provide a replacement Motorcycle where one is available.

14.2 We are also not responsible for:

- (a) Damage as a result of use of the incorrect fuel type;
- (b) a flat battery;
- (c) tyre changing;
- (d) lost keys and a replacement cost of up to \$500 plus any delivery or postage charges applies; or
- (e) keys locked in the Motorcycle.

Extra charges will apply if any of these services are provided at Your request.

14.3 Subject to the Australian Consumer Law, We are not responsible for:

- (a) flights You have missed;
- (b) holiday plans that are disrupted;
- (c) loss of enjoyment; or
- (d) consequential or economic loss.

We therefore strongly recommend You purchase a travel insurance policy.

15 Accident and theft reporting

IMPORTANT NOTICE

A breach of any part of this clause 15 is a Major Breach of the Rental Contract. See clause 16 for further details.

- 15.1 If You or an Authorised Driver has an Accident or if the Motorcycle is stolen You must report the Accident or theft to Us within 24 hours of it occurring and fully complete an Accident/Theft report form.
- 15.2 If the Motorcycle is stolen or if You or an Authorised Driver of the Motorcycle has an Accident where:
- (a) any person is injured;
 - (b) the other party has failed to stop or leaves the scene of the Accident without exchanging names and addresses; or
 - (c) the other party appears to be under the influence of drugs or alcohol,
- You or the Authorised Driver **must** also report the theft or Accident to the Police.
- 15.3 If You or an Authorised Driver have an Accident You and the Authorised Driver **must**:
- (a) exchange names and addresses, telephone numbers and email addresses with the other driver;
 - (b) take the registration numbers of all vehicles involved;
 - (c) take as many photos as is reasonable showing:
 - (i) the position of the vehicles before they are moved for towing or salvage;
 - (ii) the Damage to the Motorcycle;
 - (iii) the damage to any third party vehicle or property; and
 - (iv) the general area where the Accident occurred, including any road or traffic signs;
 - (d) obtain the names, addresses and phone numbers of all witnesses;
 - (e) forward all third party correspondence or court documents to Us within 7 days of receipt; and
 - (f) co-operate with Us in the prosecution of any legal proceedings that We may institute or defence of any legal proceedings which may be instituted against You or Us as a result of an Accident, including attending:
 - (i) Our lawyer's office; or
 - (ii) any Court hearing.
- 15.4 You and an Authorised Driver **must not**:
- (a) make any admission of fault;
 - (b) promise to pay any claim for Third Party Loss; or
 - (c) release the other party from any liability to pay for Damage as a result of an Accident, theft of attempted theft.

16 Consequences of a Major Breach of the Rental Contract

- 16.1 If You or any Authorised Driver:
- (a) commit a Major Breach of the Rental Contract in a way that causes Damage, theft of the Motorcycle or Third Party Loss; or
 - (b) drive the Motorcycle in a reckless manner so that a substantial breach of road safety legislation, including the Crimes Act 1958 (Vic) or the Road Safety Act 1968 (Vic) has occurred,
- You and any Authorised Driver:
- (i) have no Damage Cover;
 - (ii) are liable for all Damage, theft of the Motorcycle and Third Party Loss; and
 - (iii) are liable for and **must** pay any additional costs or expenses We incur as a direct consequence.
- 16.2 Acting reasonably, We may terminate the Rental Contract and take immediate possession of the Motorcycle if a breach of any part of clause 16.1 has occurred.

17 Privacy

- 17.1 We are committed to respecting privacy and will not collect, use or disclose Your personal information where doing so would be contrary to law.
- 17.2 When We collect Your personal information We will do so only for the purpose of providing rental services to You. If You choose not to provide this information to Us We may not be able to provide those rental services to You.
- 17.3 We take reasonable steps to make sure Your personal information is accurate, up to date and complete and that it is protected from misuse, loss or unauthorised access, modification or disclosure.
- 17.4 We may fit a GPS Tracking Device to the Motorcycle to enable Us to track the Motorcycle when it is out of Our possession. When You sign the Rental Agreement You are authorising Us to use the GPS Tracking Device to track the Motorcycle until it is returned to Us.

IMPORTANT NOTICE

A breach of any part of this clause 17.5 is a Major Breach of the Rental Contract. See clause 16 for further details.

- 17.5 You **must not** tamper with the GPS Tracking Device or remove it from the Motorcycle.

18 Definitions

Accident means an unintended and unforeseen incident, including:

- (a) a collision between the Motorcycle and another vehicle or object, including animals and roadside infrastructure; and
 - (b) a weather event, including hail Damage,
- that results in Damage or Third Party Loss.

Authorised Driver means any driver of the Motorcycle who is approved by Us and who is recorded on the Rental Agreement prior to the Start of the Rental.

Damage means:

- (a) any loss or damage to the Motorcycle including its parts, components and accessories, including the GPS unit, that is not fair wear and tear;
- (b) towing and salvage costs;
- (c) assessing fees; and
- (d) Loss of Use,

and for the removal of doubt, any Damage to the Motorcycle, including, the headlights, lights or tyres, that makes the Motorcycle unroadworthy is **not** fair wear and tear.

Damage Cover means the cover You and an Authorised Driver have for Damage, theft, attempted theft and Third Party Loss under clause 11, subject to the Damage Cover Exclusions in clause 12.

Damage Excess means the amount, including GST, up to which You **must** pay Us in the event of an Accident or attempted theft that causes Damage or Third Party Loss or the Motorcycle has been stolen and not recovered.

End of the Rental means the date and time shown in the Rental Agreement or the date and time the Motorcycle is returned to Us, whichever is the later.

GPS Tracking Device means a GPS or other device that is fitted to the Motorcycle that has electronic tracking capabilities to determine its location and other data including speed and fuel levels.

Loss of Use means Our loss calculated on a daily basis at the daily rate shown in the Rental Agreement because the Motorcycle is being repaired or replaced if it is written off as a result of an Accident or it has been stolen.

Major Breach means a breach of any of the following clauses:

- 3 (all parts); 4.1, 4.2, 4.3, 4.4, 4.5; 5 (all parts); 6.2, 6.3, 6.4, 6.5, 6.7, or 9.5 that causes Damage, theft of the Motorcycle or Third Party Loss;
- 15 (all parts) that prevents Us from properly investigating a claim arising from an Accident or theft or from prosecuting or defending any Accident or theft claim; or
- 17.5.

Motorcycle means the Motorcycle described in the Rental Agreement and includes its parts, components and accessories, including the GPS unit.

Off Road means any area that is neither a sealed or an Unsealed Road and includes but is not limited to unformed roads, fire trails, tracks, river and tidal crossings, creek beds, beaches, streams, dams, rivers, flood waters, sand, deserts, rocks, fields and paddocks.

Rental Charges means the charges payable for renting the Motorcycle from Us together with GST and any other taxes or levies which are all fully set out in the Rental Agreement.

Rental Location means the location from which the Motorcycle is rented, as shown on the Rental Agreement.

Rental Period means the period commencing at the time shown in the Rental Agreement and concluding at the End of the Rental.

Security Bond means the amount of \$2,500 We collect from You at the Start of the Rental as security for the Rental Charges and other fees and charges incurred during Your rental and the amount is fully refundable subject to clause 7.3.

Start of the Rental means the date and time that the rental commences as shown in the Rental Agreement.

Third Party Loss means loss or damage to third party property, including other motor vehicles and any claim for third party loss of income.

Underbody Damage means any damage to the Motorcycle caused by or resulting from contact between the underside of the Motorcycle and any part of the roadway or any object or obstruction, including kerbs, gutters, speed or road humps, barriers or wheel stops and does not arise as a result of an impact with another vehicle.

Unsealed Road means a road, other than a road that is undergoing temporary roadworks, that has been formed and constructed but is not sealed with a hard material such as tar, bitumen or concrete.

We, Us, Our, means F.F.P. Business Creations Pty Ltd ATF The Paderno Family Trust trading as 73MOTO Great Ocean Road Motorcycle Rentals ABN 33 356 516 327.

You, Your means the person, whether it is an individual, a firm or company or government agency that rents the Motorcycle from Us and whose name is shown in the Rental Agreement.