

Short Term Motorcycle Rental Agreement



This Agreement is made on

PARTIES

Mark Ronald Dempsey t/as Southern Classic Motorcycles ABN 46 505 202 987 of 9 Glanville Road, Sussex Inlet NSW 2540 (“SCM”)

and

The person identified in the Schedule as the renter
(collectively “the parties”)

BACKGROUND

- A. SCM and the renter have agreed to enter into this Agreement for the short-term hire of the Motorcycle on the terms and conditions set out in this Agreement.
- B. SCM agrees to rent the Motorcycle to the renter for the rental period and the renter agrees to take the Motorcycle on hire for that period and to pay the rental charge as set out in the Schedule for the Motorcycle for the rental period, together with any applicable GST, on the terms and conditions set out in this Agreement.

AGREEMENT

Definitions

In this Agreement:

Agreement means this agreement and incorporates the SCM Standard Terms and Conditions.

Motorcycle means motorcycle described in the Schedule and any replacement for that and includes all accessories and other equipment supplied with the Motorcycle when the renter takes possession of the Motorcycle from SCM.

GST means a goods and services tax as that expression is defined in the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and includes all amendments and rulings.

pillion means a passenger on a motorcycle.

renter means the person identified in the Schedule and executing this Agreement and is the person in charge of and the rider of the Motorcycle.

rental period means the period commencing and terminating on the dates set out in the Schedule.

rental charge means the charge payable by the renter for the hire of the Motorcycle and any other equipment provided as set out in the Schedule.

Security bond means the amount specified in the Schedule to be paid as security for the return of the Motorcycle which is refundable at the end of the rental period in accordance with the terms of this Agreement.

Schedule means the schedule attached to this Agreement and that schedule forms part of this rental agreement.

SCM Standard Terms and Conditions means the terms and conditions of hire of a motorcycle by SCM to a renter as published on the SCM website or other media from time to time.

Interpretation

1. The singular includes the plural and vice versa where the context permits.
2. A reference to one gender includes a reference to all genders where the context permits.
3. A reference to a party includes that parties legal personal representatives, successors and assigns.
4. The Schedule forms part of this Agreement.
5. In the event of an inconsistency or conflict between the provisions of this Agreement and the SCM Standard Terms and Conditions, the provisions of this Agreement will prevail to the extent of any such inconsistency or conflict.

Operative provisions

1. Rental and use of the Motorcycle

- 1.1** SCM agrees to rent the Motorcycle to the renter for the rental period and the renter agrees to take the Motorcycle on hire for the rental period and to pay the rental charge for that rental period, together with any applicable GST, on the terms and conditions set out in this Agreement. The renter is entitled to use the Motorcycle for the rental period and for any agreed extension of the rental period. The renter agrees to return the Motorcycle to SCM at the end of the rental period to the address stated in the Schedule.
- 1.2** Subject always to the terms of this Agreement and the SCM Standard Terms and Conditions the renter will have unrestricted use of the Motorcycle during the rental period throughout Australia. The renter acknowledges and agrees that the Motorcycle is a road bike and will not at any time during the rental period ride the Motorbike on untarred dirt or gravel roads. It is the renters responsibility to ensure that trip planning avoids unsealed roads and that all travel is confined to roads with sealed bitumen surfaces.
- 1.3** The renter acknowledges that SCM always retains title to the Motorcycle and that the renter has rights to possess the Motorcycle during the rental period as a mere bailee only.

2. Rental charge, deposit and Security Bond.

- 2.1** The renter agrees to pay SCM the amount of the rental charge as set out in the Schedule, together with any applicable GST. The rental charge includes any deposit paid by the renter on or prior to the date of this Agreement as may be specified in the Schedule to this Agreement.
- 2.2** The renter agrees to pay all other amounts set out in the Schedule or otherwise payable in accordance with SCM Standard Terms and Conditions, together with any applicable GST, along with any duties, tolls, fees, outgoings, penalties, fines, demands, charges or costs imposed by any authority or department of state on or in connection with this Agreement or the renters hire of the Motorcycle.
- 2.3** The renter will pay the Security bond as set out in the Schedule prior to taking possession of the Motorcycle in such manner as is required by SCM. The renter by his entry into this Agreement authorises SCM to complete all documents necessary or desirable to enable the renter to make any required payment of the Security Bond or the rental charge through any approved credit card system.
- 2.4** The Security bond is fully refundable after the return of the Motorcycle in the same condition the renter took possession (fair wear excepted) on or prior to the agreed return time. SCM will process the refund of the Security bond within a reasonable time of the return of the Motorcycle allowing SCM time to thoroughly inspect the Motorcycle for possible physical and mechanical damage caused by misuse and/or abuse by the renter.
- 2.5** Any refund of a Security bond which was paid by credit card will be returned to the credit card concerned and otherwise by EFT to a bank or building society account nominated by the renter in writing.

- 2.6** The renter by his execution of this Agreement authorises SCM to apply all or part of the Security bond to rectify any breach(es) by the renter of the terms of this Agreement without prior notification to the renter.
- 2.7** Any merchant fee payable by SCM arising out payment by the renter by credit card including but not limited to either or both the rental charge and the Security bond are payable by the renter in addition to the actual SCM charge.

3. Condition of the motorcycle.

- 3.1** The renter acknowledges having examined the Motorcycle at the commencement of the rental period and agrees that the Motorcycle is fully roadworthy and is cosmetically and mechanically in good condition and repair. The parties may jointly acknowledge and agree by inclusion in the Schedule the details of any pre-existing damage or blemish prior to the start of the rental period. Such damage or blemish which shall not be considered by SCM on the return of the Motorcycle. The renter also acknowledges that the Motorcycle must be returned in the same condition as at the commencement of the rental period (fair wear excepted) and in a clean condition. If the Renter returns the Motorcycle in a markedly unclean condition a cleaning fee as set out in the Schedule plus applicable GST will apply.

4. Fuel and repairs.

- 4.1** At the start of the rental period Motorcycles are provided with a full tank of fuel by SCM. It is the renters responsibility to return the Motorcycle at the end of the rental period with a full tank of fuel. Fuel tanks will be inspected on return to SCM for compliance with this provision.
- 4.2** The renter must only fill the Motorcycles petrol tank during the term of this Agreement with fuel containing at a minimum 95 octane and where available 98 octane.
- 4.3** Any renter running out of fuel during the rental period will incur a fee for any rescue service supplied by SCM to recover the Motorcycle as set out in the Schedule, as well as any reasonable repair costs to that Motorcycles' fuel injection system required to get the Motorcycle operational again.
- 4.4** Under no circumstances may the renter undertake or commission any repairs to the Motorcycle during the rental period, whether consequential to running out of fuel or any other cause, without the prior consent of SCM other than in an emergency.

5. Safety Riding Apparel.

- 5.1** It is a condition of hire and a legal requirement that the renter and any pillion always wear an Australian approved motorcycle helmet when riding the Motorcycle.
- 5.2** It is recommended by SCM that the renter and any pillion should wear protective gloves, jackets, pants and boots designed specifically for motorcycling.
- 5.3** SCM is under no obligation to provide helmets and protective clothing and is under no obligation to refund all or part of the rental charge if the renter is unable to use the Motorcycle due to the lack of an approved helmet on the part of the renter or pillion at the start of the rental period.

6. Late return of Motorcycle

- 6.1** SCM may charge a late fee as set out in the Schedule in the event of the late return of the Motorcycle.
- 6.2** In the event that the renter fails to return the Motorcycle at the end of the rental period, SCM may, without affecting any other rights, notify NSW Police or any other relevant authority of the failure and take such action or proceedings as is determined to be necessary to recover possession of the Motorcycle.

6.3 The renter will indemnify SCM for all costs incurred by SCM in connection with the recovery of the Motorcycle, including legal costs on an indemnity basis. SCM may enter any premises owned or occupied by the renter where it reasonably believes the Motorcycle may be located. In such event the renter releases SCM from any liability or damage incurred in retaking or attempting to retake possession of the Motorcycle.

7. Renter's responsibilities.

7.1 The renter acknowledges responsibility during the rental period to check and maintain the Motorcycles engine oil at the required level and to maintain proper chain tension and lubrication. The engine oil, chain tension and lubrication must be checked each day the Motorcycle is ridden. Failure to check these items specified will be treated as neglect and the renter indemnifies SCM for any loss or damage sustained as a result of this breach. The obligations in this clause only apply to a rental period of more than one day. Any significant loss of engine oil must be reported to SCM as soon as practical. SCM will refund the renter the costs of any additional oil or lubricants where the need for same is not due to any default on the part of the Rider.

7.2 The renter acknowledges and agrees that motorcycling riding is dangerous and carries high risks of personal injury or death and that SCM is not responsible or liable in any way for the conduct of the Rider, any pillion or other road users during the rental period.

7.3 The renter acknowledges and agrees that during the rental period the operation, custody, management and use of the Motorcycle is at the sole risk of the renter and the renter releases SCM from all claims for loss or damage:

7.3.1 sustained by the renter or any other person for the loss of any items of personal property taken from the Motorcycle or otherwise lost during the rental period;

7.3.2 sustained by the renter arising out of the breakdown of the Motorcycle during the rental period; and/or

7.3.3 for any personal injury or property damage occasioned to the Renter or any other person arising out of or in connection with the use of the Motorcycle howsoever and wheresoever occurring.

7.4 The renter shall only ride the Motorcycle on formed and sealed public roads in a safe and careful manner and will take all reasonable care commensurate with the conditions.

7.5 The renter shall be solely responsible for all fines and penalties for speeding and/or reckless or careless driving or other violation of any statute, ordinance, by-law or regulation of any government authority arising out of the use or operation of the Motorcycle. An administration fee as set out in the Schedule may be charged to the renter for discharge of any fines or penalties.

7.6 The renter is solely responsible for the security of the Motorcycles and its ignition keys during the rental period. Lost ignition keys must be immediately reported to SCM who shall provide replacement keys on the basis set out in the Schedule.

7.7 The renter is responsible for the damage to or loss of all the Motorcycle accessories & equipment supplied by the renter or supplied by SCM. Any loss by theft of accessories and equipment owned by SCM must be reported to NSW Police by the renter and a copy of the police report and/or event number provided to SCM on request.

8. Use of the motorcycle.

The renter agrees:

8.1 to maintain and return the Motorcycle in good order and repair (reasonable wear and tear excepted);

8.2 not to attempt to sell, assign, dispose of, sub-let, pledge or encumber the Motorcycle in any way;

- 8.3 not to alter the Motorcycle, including any identifying markings, without SCM's prior written consent;
- 8.4 to allow inspection of the Motorcycle at any reasonable time;
- 8.5 to ride and operate the Motorcycle in a skilful and careful manner;
- 8.6 not to authorise or permit the Motorcycle to be ridden by any person other than the renter;
- 8.7 not to part with possession of the Motorcycle unless authorised in writing/email by SCM;
- 8.8 not to permit the Motorcycle to be operated in a careless or dangerous manner, in breach of any statutes, regulations or rules in relation to the use or riding of Motorcycles, nor to operate or ride the Motorcycle while under the influence of intoxicating liquors or illegal drugs;
- 8.9 not to participate in or allow the Motorcycle to be used or operated for or in conjunction with any illegal activity or at any time, speed, hill climbing tests, race, rally, reliability trial or contest, stationary revving or burn outs, and shall not convey any load greater than that for which the Motorcycle was constructed;
- 8.10 not to ride the Motorcycle when it is in a damaged or unsafe condition; and
- 8.11 not to use the Motorcycle for any commercial purpose other than where that is expressly agreed in writing by SCM.

The renter warrants:

- 8.12 that the particulars and warranties provided are correct in every respect and are not misleading or deceptive in any way including, without limitation, by omission;
- 8.13 that the renter holds a current NSW Driver licence, interstate or international driver licence valid for the use of the Motorcycle and current during the rental period;
- 8.14 that the renter has relied on his own assessment of:
 - 8.14.1 his skills and ability at motorcycle riding; and
 - 8.14.2 the suitability of the Motorcycle for the purpose contemplated within the rental period by the renterand has not relied on the skill and judgement or any representations made by or on behalf of SCM, including but without limitation, with respect to the Motorcycle or its suitability for the renters purpose; and
- 8.15 that the renter has inspected the Motorcycle before commencing the rental period and agrees that the Motorcycle complies with its description in the Schedule and is of merchantable quality and fit for the renters purpose.

9. Damage to Motorcycle.

- 9.1 Where damage occurs to the Motorcycle, mechanical difficulty arises, or the Motorcycle is involved in an accident, the renter will immediately notify SCM and will act in accordance with instructions given by SCM.
- 9.2 In the event that mechanical damage, cosmetic damage, accident or breakdown occurs during the rental period and is determined by SCM, acting reasonably, to be caused by the misuse or abuse of the Motorcycle by the renter, and/or by a renter riding beyond their level of ability, the renter will remain liable for the rental charge for the remainder of the unexpired rental period, together with:
 - 9.2.1 all transport, administration and repair costs as set out in the Schedule; and
 - 9.2.2 any and all direct or indirect losses sustained by SCM as the result of the renters default including but not limited to loss of income occurring as a result of the Motorcycles consequent unavailability.
- 9.3 The renter agrees to provide all assistance reasonably required by SCM in relation to any accident in which the Motorcycle is involved during the rental period, including the provision of statements, information and documents and will attend court to give

evidence and meet with SCM's lawyers as required in relation to any legal action arising in connection with the hire of the Motorcycle.

9.4 Where a Motorcycle has been involved in an accident and is not capable of further road use, SCM are under no obligation at the time to replace it with another Motorcycle for use during the balance of the rental period. The renter is responsible for all accommodation and subsequent transport costs incurred in consequence of their inability to continue the journey on the Motorcycle and no liability lies with SCM to the renter for the unused portion of the rental period.

9.5 The renter is liable for any tyre damage which is more than what would reasonably be regarded as normal wear.

10. Repossession of the motorcycle.

10.1 SCM may repossess the Motorcycle at any time during the rental period without demand on becoming aware that:

10.1.1 the renter is in breach of any provision of this Agreement;

10.1.2 the Motorcycle has been damaged in any way; or

10.1.3 in all the circumstances that the continuing use of the Motorcycle by the renter would be likely to adversely affect the Motorcycle or its performance.

10.2 Renter has no entitlement to compensation from SCM if the Motorcycle is repossessed in accordance with clause 10.1 at any time during the rental period.

11. Unconditional obligation.

11.1 The renter's obligation to pay rental charges, service fees, and any other moneys under this Agreement is absolute and unconditional. The renter indemnifies SCM for any and all losses sustained in consequence of any breach by the renter of the terms of this Agreement. Without limitation, the renter's payment obligations will continue notwithstanding any defect in, breakdown, accident, loss, theft or damage to the Motorcycle.

12. Exclusion of warranties.

12.1 To the full extent permitted by law, all express and implied terms, conditions and warranties (other than the ones set out in this Agreement) are excluded.

12.2 SCM is not liable for any damage, injury or loss to any person or property arising from the possession, operation or use of the Motorcycle by the renter.

12.3 Whether or not the Australian Consumer Law or a law of similar effect applies, SCM's liability for anything in relation to the Motorcycle and its use, including damage or economic loss, is limited to the maximum extent permitted by law. In any event SCM's maximum liability to the renter is limited, at its option, to the rental charge.

13. Indemnities.

The renter indemnifies SCM against:

13.1 Any loss of or damage to the Motorcycle, however arising during the rental period;

13.2 Liability for any death, injury or damage to any person or property arising directly or indirectly from the Motorcycle or its use;

13.3 any loss or liability incurred by SCM resulting from possession, use or operation of the Motorcycle by the renter; and

13.4 any expense or cost paid or payable by SCM as a result of default by the renter or breach of the terms of this Agreement by the renter, including but not limited to clause 9.2.

14. Interest.

14.1 Where any moneys are required to be paid by the renter to SCM, and such moneys exceed the deposit and bond, then SCM is entitled to charge interest at a daily rate of ten (10) percent per annum on all amounts unpaid after falling due. SCM will be entitled to recover from the renter all costs expenses, including legal costs on an indemnity basis, incurred in recovering any outstanding moneys from the renter.

15. Severance

15.1 If any provision of this Agreement is or becomes illegal, invalid or unenforceable, such provision shall be severed and the remaining provisions shall continue unaffected.

16. Waiver.

16.1 No waiver by SCM of any of its rights or powers under this Agreement prevents the later enforcement by SCM of any of its rights or powers in respect of the original or any later default or breach by the renter of any provision of obligation arising under this Agreement.

17. Service of notices.

Any notice that is required to be served by one party on the other in writing may be served by one of the following means:

17.1 Personally on the other party;

17.2 By ordinary pre-paid post to the address given by the parties in this Agreement in which case it is deemed served three business days after postage, proof of which is on the sender; or

17.3 By email to the address given in the Schedule in which case it is deemed served on entering the receivers information system.

17.4 Either party may by notice in writing advise the other of a change of address for service but in the absence of such notice the parties can conclusively rely on the addresses given in this Agreement.

18. Governing law and jurisdiction.

18.1 This Agreement is subject to the laws of the state of New south Wales and the parties agree to submit to the jurisdiction of the courts of that state and all courts able to hear appeals from those courts.

19. Whole agreement

19.1 The renter acknowledges and agrees that he/she has read and understands fully the SCM Standard Terms and Conditions and agrees to be bound by those Terms and Conditions.

19.2 Renter further acknowledges and agrees that SCM's Standard Terms and Conditions form part of this Agreement.

19.3 The parties agree that this Agreement, the Schedule and the SCM Standard Terms and Conditions comprise the totality of the Agreement as to the hire of the Motorcycle by SCM to the renter and unless otherwise agreed in writing that all other discussions, documents, communications and representations of any kind and in any form of media are expressly excluded.

Executed as an agreement between the parties.

Southern Classic Motorcycles

by its duly authorised representative:

.....

Print name:

Position:

Signed by the renter:

.....

Print name:



**SOUTHERN CLASSIC
MOTORCYCLES**
Hire Tours Sales