

# WAIVER AND RELEASE OF LIABILITY / AGREEMENT TO INDEMNIFY

PRINT NAME: \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE: \_\_\_\_\_

DATED: \_\_\_\_ / \_\_\_\_ / 20\_\_

I, \_\_\_\_\_ ("Releasor"), acknowledge that I am voluntarily requesting to use a Can-Am Spyder Roadster (the "Product"), which will involve operating on public roads, riding, and otherwise participating in the use of the Product furnished to me (the "Activities"). I have been informed of the laws and rules with respect to the proper and respectful use of the Products, and I expressly agree to use all safety equipment required when operating the Products and participating in the Activities.

**I acknowledge and understand that the Product is a Can-Am Spyder Roadster and that the Activities are inherently dangerous and involve a variety of known and unanticipated risks of SERIOUS BODILY INJURY, ILLNESS, DEATH, DAMAGE OR LOSS to myself, my property, and to other third parties and their property, which may be caused by my own actions or inactions, those of others participating in the Activities (including without limitation operator error, reckless driving by myself or other drivers, my negligent use of the Product or other participant's negligent use of the Product or other vehicle), the Product (including without limitation equipment failure), roads, surfaces, facilities, weather, other vehicles, persons or obstacles (including without limitation a collision with other vehicles, other participants, as well as manmade or natural objects), and other conditions in which the Activities take place, negligent maintenance or supervision of the Product and/or participants, or the negligence or misconduct of any of the "Released Parties" named below. I understand the inherent dangers of driving or being a passenger on an open-air, motorcycle-type vehicle on public streets, roads, highways or interstates, including without limitation, those risks set forth immediately above.**

## 1. Assumption of Risk

**I EXPRESSLY DECLARE AND AGREE TO ASSUME THE ENTIRE RISK OF ANY AND ALL DAMAGES, OCCURRENCES, ACCIDENTS AND PERSONAL INJURY, INCLUDING BUT NOT LIMITED TO DISABILITY OR DEATH, THAT I MAY SUFFER WHILE USING THE PRODUCTS OR PARTICIPATING IN THE ACTIVITIES WHETHER IDENTIFIED IN THIS WAIVER AND RELEASE OF LIABILITY / AGREEMENT TO INDEMNIFY (THIS "AGREEMENT") OR NOT (EVEN IF CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OR MISCONDUCT OF THE RELEASED PARTIES NAMED BELOW).** I hereby undertake and agree, while using the Product or participating in the Activities, to respect and comply with all applicable laws, rules and regulations governing the Product's use, to comply with directions and/or instructions given, including without limitation the content of the attached safety checklist. I shall be responsible for all fines, penalties, and property damage I may incur or cause to the Products, and personal injuries or property damage incurred by others as a result of my conduct and use of the Products or participating in the Activities.

## 2. Rules of Participation and Familiarity with Attached Safety Checklist

### WARNING: DANGERS OF PARTICIPATION

I have familiarized myself with the rules applicable to use of the Products and am familiar with the attached Safety Checklist (which is incorporated herein by reference). I agree to obey such rules and safety guidelines and acknowledge that such rules and safety guidelines apply to me in all cases. I agree to participate in a skill assessment evaluation session related to the use of the Product.

## 3. Abilities to use the Product

I agree that I will not be under the influence of alcohol, drugs, or anything that could impair my faculties and/or judgment while using the Products or while engaged in the Activities. I will not participate in the Activities if I have a physical or mental condition which would make my participation in the Activities an undue risk to myself, the Product, other participants in the Activities and/or any other third party. I will not participate in the Activities if I have a physical or mental condition that may be aggravated by my participation in, or may impair my ability to participate in, the Activities. I can see and hear well enough to operate a motor vehicle properly and safely and I am wearing any eyewear or hearing apparatus required to operate a motor vehicle properly and safely.

## 4. Waiver and Release of Liability

In consideration of the above, I, on behalf of myself, my spouse, heirs, assigns, successors, beneficiaries, executors, insurers, attorneys, and all other legal and/or personal representatives, agree to waive, release and covenant not to sue Spyder Ryder Australia Pty Ltd, and/or their parent, subsidiaries, successors or predecessors in interest, assigns, or any related or affiliated entities, their employees, officers, directors, agents, representatives, attorneys, insurers, insurance agents and brokers (collectively the "Released Parties"), of and from, any and all actions, causes of actions, claims, demands, damages, losses, costs, expenses, compensation, rights, debts, liabilities, obligations, disputes, controversies, and payments of every kind and character, known or unknown, existing or contingent, latent or patent, regarding, arising from, on account of, growing out of, or in any way related to, the Activity, the Product, the conduct of the Released Parties, or my own conduct, whether or not due to my own negligence, acts, or omissions, or the negligence, acts or omissions of other third parties, or the Released Parties, for any and all known and unknown personal injuries, death, disabilities, damages, or intangible damages occurring at the time hereafter.

## 5. Specific Release/Waiver of Unknown Claims

I understand that I may hereafter discover claims, facts, demands, actions, causes of action, liability, losses, damages, costs and/or expenses in addition to or different from those that I now know or believe to be true with respect to the Activity or the Product and the matters discussed herein. Nevertheless, I acknowledge that it is my intention to fully and

completely waive and release the Released Parties from all such unknown matters and claims.

**6. Indemnification**

I hereby agree to indemnify, defend (with counsel satisfactory to Spyder Ryder Australia) and hold harmless the Released Parties against any and all claims, demands, actions, causes of action, liability, losses, damages, costs, expenses and reasonable attorneys' fees, which Released Parties may incur in any way related to my conduct, use of the Products, or my participation in the Activities.

**7. No Representations or Warranties by Released Parties**

I hereby acknowledge and agree that no representation or warranty of any kind or nature whatsoever has been given to me regarding the condition of any facilities or equipment. I agree that the Released Parties shall not be liable for any alleged negligence pertaining to the condition of the facilities and/or equipment.

**8. Entire Agreement/Severability**

This Waiver/Release contains the entire agreement between me and the Released Parties, and the terms of this Waiver/Release are contractual. This Waiver/Release may not be modified in any way. If any part of this Waiver/Release is determined to be invalid by law, all other parts of this Waiver/Release shall remain valid and enforceable. This Waiver/Release shall be governed by the laws of Queensland, Australia.

**9. Use of Photograph/Likeness.**

I acknowledge and agree and grant permission to the Released Parties to use my name, voice, photograph, likeness, performance taken or recorded at the Activities and to reproduce, edit, distribute, perform and publish such for advertising, promotional and other purposes in any media (print, promotional, internet, video, or otherwise) of any kind throughout the world in perpetuity without notice, further consent or payment of any kind.

I hereby waive any right that I may have to inspect and/or approve the finished product or the advertising copy that may be used in connection therewith. I hereby release, discharge and agree to save harmless, the Released Parties from any and all liability by virtue of any blurring, distortion, alteration, optical illusion or use in composite form, whether intentional or otherwise, that may occur or be produced in the taking of said picture, or in any processing tending towards the completion of the finished product, unless it can be shown that they and the publication thereof were maliciously caused, produced and published solely for the purpose of subjecting me to conspicuous ridicule, scandal, reproach, scorn and indignity.

**11. Full Understanding of Release and Waiver/ No Coercion**

**I, the undersigned, declare that I have fully read and understood this final and complete Waiver and Release of Liability. I declare that I have not been influenced to any extent whatever in making this release by any representations or statements regarding the Activity, Product, or any other matters, made by the Released Parties and understand that I am giving up substantial rights by signing it and do so voluntarily.**

**IT IS IMPORTANT THAT YOU READ AND UNDERSTAND THESE ELEMENTS BEFORE USING THE PRODUCT. INITIAL EACH ELEMENT.**

**Read, understand, put your initials and remember**

- \_\_\_ This vehicle is not a motorcycle
- \_\_\_ You have to use your right foot to brake
- \_\_\_ This vehicle is wider than a motorcycle
- \_\_\_ Don't follow too close when riding
- \_\_\_ You have to steer to initiate a turn, do not counter steer
- \_\_\_ Always watch around for your safety, always monitor
- \_\_\_ Reduced speed riding is safer

**Executed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.**

**READ, UNDERSTOOD AND ACCEPTED BY :**

**Signature Rider/Pillion/Guardian \_\_\_\_\_**

**Name: \_\_\_\_\_**