|  |
| --- |
| Host Club Agreement |

**AUSCYCLING LIMITED**

**[insert host CLUB name]**

**PARTIES:**

**AUSCYCLING LIMITED** (ABN 31 616 027 153) of 12/459 Little Collins Street, Melbourne, VIC 3000 (**AC**)

and

**[INSERT HOST]** (ABN [Insert ABN]) of [Insert Address] (**Host Club**)

RECITALS:

1. AC owns the AusCycling BMX Racing National Rounds (**Event**).
2. The Host Club is seeking to partner with AC for the delivery of two (2) rounds of the 2023 AusCycling BMX Racing National Rounds.
3. The parties have agreed to enter into this Agreement to set out the terms and conditions for the conduct of the Event.

AGREEMENT:

# INTERPRETATION

1. In this Agreement unless the context otherwise requires:

### **Agreement** means this agreement and any schedules and annexures.

**Business Day** means a day on which the major trading banks are open for ordinary business in [Select applicable State/Territory] excluding a Saturday, Sunday or public holiday.

**Commencement Date** means the date set out in **Item 2** of **Schedule 1** of this Agreement.

**Event Date** means the date the Event must be conducted which is set out in **Item 3** of **Schedule 1** of this Agreement.

**Intellectual Property** includes, but is not limited to, ideas, patents, registered and unregistered design rights, registered and unregistered trademarks, drawings, inventions and any copyright subsisting in any works, documents or other items and all other intellectual and industrial property rights (without limitation) and similar or analogous rights existing under the laws of any country and all rights to apply for or register such rights.

**Key Personnel** mean the Host's key personnel as set out in **Item 6** of **Schedule 1**.

**Rights** mean the right to host the Event during the Term in accordance with this Agreement.

**Venue** means the venue where the Event will be held, which is set out in **Item 4** of **Schedule 1** of this Agreement.

1. Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise:

#### the singular includes the plural and conversely;

#### a gender includes all genders;

#### where a word or phrase is defined, its other grammatical forms have a corresponding meaning;

#### a reference to a person includes a body corporate, an unincorporated body or other entity and conversely;

#### a reference to a clause or schedule is to a clause of or schedule to this Agreement;

#### a reference to any party to this Agreement or any other agreement or document includes a party’s successors and permitted assigns;

#### mentioning anything after include, includes or including does not limit what else might be included;

#### a reference to conduct includes any omission, representation, statement or undertaking, whether or not in writing; and

#### an obligation of two or more parties shall bind them jointly and severally. An obligation incurred in favour of two or more parties shall be enforceable by them jointly and severally.

# MUTUAL COMMITTMENT

## Each party agrees, for the benefit of each other party, that it will:

1. not be involved in any conduct or activity that may harm the name or reputation of the other party;
2. agree to comply with all applicable laws and not to do or omit to do, any act or thing that would or would be likely to cause the other party to breach any of these laws;
3. agree not to do or omit to do any act or thing, including but not limited to directly or indirectly offering or receiving a commission, inducement, gift or reward, which could in any way be perceived as an attempt to improperly or unlawfully influence any person’s actions or decisions in connection with this agreement or the delivery of the competition;
4. act ethically in the delivery, conduct and execution of the Event;
5. act professionally with due skill and care;
6. not infringe the intellectual property rights or other protected rights of any third party.

# Obligations

1. Host Club obligations – In consideration of the grant of the Rights, the Host Club must during the Term:

#### meet and comply with the delivery obligations and standards as set out by AC in this Agreement, and the Host Club Guide;

#### comply with any reasonable requests from AC;

#### comply with all relevant legislation, regulations, notices and directions of any government or semi-government authority in force from time to time governing the operation and conduct of the hosting of the Event;

#### not do anything which might cause the Event to be mistaken for, in any way passed off as, represented to be, or known or described as anything other than the Event name in clause A;

#### never directly or indirectly challenge, contest or call into question the validity or ownership of the Rights;

#### use its best endeavours to preserve and protect the value and validity of the Event, the Rights, the Event Imagery and any AC logos;

#### ensure that the Key Personnel have in-depth involvement with the performance of the Host Club's obligations under this Agreement;

#### if there is any expectation of, or any actual cessation or reduction in one or more of the Key Personnel's in-depth involvement, promptly inform AC in writing and ensure continued performance of the Host Club's obligations and promptly engage one or more replacement Key Personnel, subject to approval of such person or persons by AC (such approval not to be unreasonably withheld). Where AC reasonably withholds its approval of the replacement Key Personnel, the Host Club must engage such other Key Personnel that are reasonably approved by AC;

#### not do, nor permit any of the Key Personnel or its officers, servants, employees, contractors, volunteers or agents to do or perform any act which prejudices or brings into disrepute AC or any of its officers, servants and agents, the Event or the sport of cycling;

#### provide all reasonably necessary support, information, materials and assistance to AC to enable it to meet its obligations under this Agreement;

#### not do or permit anything to be done which is or could be detrimental to the goodwill, name or reputation of AC or the Event; and

#### use its best endeavours to maintain and promote the image and reputation of AC and the Event.

1. Mutual obligations

#### Both parties will comply with the Privacy Act 1988 (Cth)) and the Australian Privacy Principles as set out in that Act.

#### The Event must be conducted under and in accordance with the AC and UCI Technical Regulations and any other Policies of AC as they apply.

1. AC Obligations

#### AC will during the Term comply with its obligations under this Agreement and the Host Club Guide.

# Sponsorship

1. The Naming Rights of the AusCycling BMX Racing National Rounds are the exclusive property of AC.
2. The Host Club has the right to enter into agreements for category sponsors, for the rounds they are selected to host of the Event, provided:

#### they do not conflict with any AC exclusive partners;

#### the proposed sponsor is not offensive in nature, carries offensive messages or disallowed (tobacco, alcohol, pornography, violence, political);

#### or any other sponsorship which might bring AC or the sport into disrepute.

# fees

### AC will retain the entry fees as outlined in the Host Club Guide.

# term and termination

1. This Agreement will be deemed to commence on the Commencement Date, as set out in **Item 2** of **Schedule 1**.
2. Subject to this Agreement, the Term shall be the period from the Commencement Date until fourteen (14) days after the end of the Event.
3. This Agreement may be terminated prior to the end of the Term only by the written consent of the parties.
4. This Agreement may be terminated by AC by notice in writing to the Host Club:

#### if the Host Club breaches any term of this Agreement, and if the breach is capable of remedy, the Host Club fails to remedy the same within twenty-eight (28) days of being so required in writing to do so;

#### subject to law, an insolvency event (as defined by the Corporations Act 2001 (Cth)) occurs in respect of the Host Club;

#### under **clause 14**;

#### where the Host Club is no longer affiliated with AC; or

#### where the Host Club no longer has the capacity or Key Personnel to deliver the event.

1. This Agreement may be terminated by the Host Club by notice in writing to AC:

#### if AC breaches any term of this Agreement, and if the breach is capable of remedy, AC fails to remedy the same within twenty-eight (28) days of being so required in writing to do so; or

#### subject to law, an insolvency event (as defined by the Corporations Act 2001 (Cth)) occurs in respect of AC.

1. Upon termination of this Agreement for whatever reason:

#### each party's obligations under this Agreement shall cease immediately; and

#### the Host Club must not from the date of termination use the name of AC in connection with its own, or any other name nor in any way hold itself out as having a continuing association with AC.

1. If AC terminates this agreement under **clause 6(d) and 14**, AC is not, and will not be, liable to the Host Club for any loss or damage suffered by it as a result of that termination.

# adverse affect on the Event and the parties

## Each party must:

1. promptly give written notice to the other party of any notice, advice or other communication received by or on its behalf which may adversely affect the conduct or the financial viability of the Event;
2. use its best endeavours to ensure that no acts or omissions are carried out or made by any person which relate to, or are otherwise associated with the Event and which may reasonably adversely affect the conduct or the financial viability of the Event; and
3. notwithstanding **clause 7(b)**, if such acts or omissions referred to in that clause are being carried out or made, the parties must ensure that such acts or omissions cease as soon as reasonably practicable after it becomes aware of such acts or omissions.

# venue

1. The Host Club will ensure the Venue is suitable to host the Event and will seek the written approval of AC at least;

#### four (4) months before the start of the Event that the readiness plan for the proposed Venue is satisfactory; and

#### one (1) month before the start of the Event that the Venue is suitable to host the Event.

1. If AC or any other relevant authority determines, in their sole discretion, that the Venue is not suitable to host the Event, AC may terminate this Agreement in accordance with this clause provided it first provides the Host Club with written notice setting out the reasons the Venue is not suitable. AC will work with the Host Club to find a suitable solution. If the Host Club is unable to rectify the problems (to the satisfaction of AC or the relevant authority, as the case may be) within thirty (30) days of receiving notice of such problems, AC may terminate this Agreement.
2. In determining the suitability of the Venue, AC will consider the Venue requirements noted within the Host Club Guide, along with:

#### safety;

#### accessibility;

#### risk management planning; and

#### prescribed service, amenity and delivery specifications; and

#### any other matter that may affect the success or safety of the Event.

# party representative

## Each party must at all times throughout the Term have a representative who has authority to bind his or her party in relation to any matter arising out of or in connection with this Agreement. Each party's representative is set out in Item 5 of Schedule 1 of this Agreement or such other person as it may nominate in writing from time to time.

# CONFIDENTIALITY

1. Each party shall keep the terms of this Agreement confidential and will not disclose to any person, other club or external agency any information concerning the content of this Agreement without the prior written consent of each other party.
2. A party may make any disclosure of the terms of this Agreement that it thinks necessary to:

#### any professional advisers, auditors, bankers, financial advisers and financiers, on receipt of a written undertaking from that person to keep the terms of this Agreement confidential;

#### comply with any law or requirement of any regulatory body (including any relevant stock exchange);

#### any employee or any employee of any Related Body Corporate (as defined in the Corporations Act 2001 (Cth)) to whom it is necessary to disclose the terms, on receipt of an undertaking from that person to keep the terms of this Agreement confidential; or

#### ensure performance of its obligations under this Agreement, except to the extent that any proposed disclosure by the Host Club under this **clause 10(b)(iv)** must first be approved in writing by AC.

# GST

## Unless otherwise specified, all amounts referred to in this Agreement are exclusive of GST.

# ENTIRE AGREEMENT

## This Agreement contains the entire agreement between the parties with respect to its subject matter. It sets out the only conduct relied on by the parties and, to the full extent permissible by law, supersedes all earlier agreements made by or existing between the parties with respect to its subject matter. Each party acknowledges that for the representation made by them in this clause every other party would not have executed this Agreement.

# DISPUTE RESOLUTION

## In the event of any dispute between the parties arising out of this Agreement (including but not limited to the application or interpretation of this Agreement):

1. within five (5) Business Days of a party notifying the other party of the dispute, representatives of the parties must meet and use all reasonable endeavours acting in good faith to resolve the dispute by joint discussions;
2. failing agreement under **clause 13(a)**, the parties must submit the dispute to mediation by a mediator as appointed by the parties. If the parties are unable to agree upon a suitable mediator within two (2) weeks of being notified of the intention to refer the dispute to mediation, a suitable mediator may be determined by the President of the Law Institute of [Select applicable State/Territory] at the request of either party; and
3. no party may commence court in relation to a dispute relating to or arising out of this Agreement.

# FORCE MAJEURE

1. Where a party (Affected Party) is, by reason of a Force Majeure Event, unable, either wholly or in part, to carry out any obligation under this Agreement, that obligation is suspended so long as it is affected by the Force Majeure Event, provided that the Affected Party:

#### provides prompt notice of the Force Majeure Event to the other party, identifying the effect of this event on its performance of this Agreement;

#### uses all reasonable diligence to remove or minimise the effect of the Force Majeure Event as quickly as possible; and

#### consults with each other party for the purpose of agreeing on measures to remove or minimise the effect of the Force Majeure Event and performs any such agreement.

1. Where the duration of the delay or failure continues for more than fourteen (14) days AC may immediately terminate this Agreement by written notice to the Host Club.
2. In this **clause 14**, **Force Majeure Event** means any event or circumstance which is beyond the reasonable control of the party, including acts of God, natural disasters, epidemic, pandemic (including COVID-19), acts of war or terrorism, riots or strikes, outside that party's organisation, or any other cause, impediment or circumstance which is beyond the control of the Affected Party and which the Affected Party could not take reasonable measures to prevent.

# AMENDMENT

## This Agreement may only be varied, modified, amended or added to in writing if agreed by the parties.

# ASSIGNMENT

## The rights and obligations of each party under this Agreement are personal. Subject to this Agreement, they cannot be assigned, charged or otherwise dealt with, and no party shall attempt or purport to do so without the prior written consent of all the parties.

# GOVERNING LAW

## This Agreement is governed by the laws of [Select applicable State/Territory]. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction in that State/Territory. The parties each consent to the other party signing this Agreement electronically.

**EXECUTED as an agreement:**

|  |  |  |
| --- | --- | --- |
| **SIGNED** for and on behalf of **AUSCYCLING LIMITED** by  as its authorised representative in the presence of: | )  ) |  |
|  |  |  |
| Or type signature |  | Or type signature |
| Signature of authorised representative |  | Signature of witness |
| Insert Name |  | Insert Name |
| Name of authorised representative (please print) |  | Name of witness (please print) |

|  |  |  |
| --- | --- | --- |
| **SIGNED** for and on behalf of **[INSERT HOST CLUB]** by  as its authorised representative in the presence of: | )  ) |  |
|  |  |  |
| Or type signature |  | Or type signature |
| Signature of authorised representative |  | Signature of witness |
| Insert Name |  | Insert Name |
| Name of authorised representative (please print) |  | Name of witness (please print) |

|  |  |  |
| --- | --- | --- |
| **Item 1:** | **Specific Event Name** | AC to enter upon execution of Agreement. |
| **Item 2:** | **Commencement Date** | AC to enter upon execution of Agreement. |
| **Item 3:** | **Event Date** | AC to enter upon execution of Agreement. |
| **Item 4:** | **Venue** | AC to enter upon execution of Agreement. |
| **Item 5:** | **Representatives** | Host Club:  Name: Host Club to Insert Name  Email: Host Club to Insert Email  Contact Number: Host Club to Insert Contact Number |
|  |  | AC:  Name: AC to insert upon execution of Agreement  Email: AC to insert upon execution of Agreement  Contact Number: AC to insert upon execution of Agreement |
| **Item 6:** | **Key Personnel** | Host Club:  Name: Host Club to Insert Name  Email: Host Club to Insert Email  Contact Number: Host Club to Insert Contact Number |
|  |  | AC:  Name: AC to insert upon execution of Agreement  Email: AC to insert upon execution of Agreement  Contact Number: AC to insert upon execution of Agreement |