

FC - ACU Master Agreement

Dated 16 May 2016

- (1) Forestry Commission Scotland and Forestry Commission England
- (2) Auto Cycle Union (and applying equally to the Scottish ACU)

Master Agreement

In connection with the holding of motor cycle events on Forestry Commission land in Scotland and England.



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BETWEEN

- (1) **THE FORESTRY COMMISSIONERS** constituted under the Forestry Acts 1919 to 1967 (as amended by the Forestry Acts 1979 and 1981) and having its principal place of business at 231 Corstorphine Road, Edinburgh EH12 7AT (hereinafter referred to as “**the Commission**”); and
- (2) **THE AUTO CYCLE UNION**, a company incorporated under the Companies Acts (Registered Number **00134679** and having its Registered Office at **Wood Street, Rugby, CV21 2YX** (hereinafter referred to as “**the Union**”).

BACKGROUND

- (A) The Agreement, under which the Commission permitted the Union to hold motor cycle events on Commission Land (the Existing Master Agreement), expired on 31 December 2015;
- (B) This new Master Agreement governs the holding of motor cycle events on Forestry Commission Scotland and England land after 1 January 2016. This new agreement has been drafted to reflect the recommendations (published in December 2014) of the Scottish Government Review Group on Motorsport Event Safety and the document *Procedures & Safety Arrangements for Events using Forestry Agreement land* subsequently produced by the Union;
- (C) The Commission constitutes three separate bodies across England, Scotland and Wales which are each regulated by the Department for Environment, Food and Rural Affairs, the Scottish Government and the Welsh Assembly Government respectively. It is intended that this Agreement shall bind the bodies in Scotland and England and that it shall apply to the use of all Commission Land for Events and Training or Preparatory Sessions within those countries. Natural Resources Wales is bound by a separate, similar Agreement with the Union.
- (D) FC Scotland, FC England and Natural Resources Wales have produced policy statements on their approach to motor sports, which support this new Master Agreement.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement, unless the context otherwise requires, the following words and expressions have the following meanings:

“ Agreement ”	this Agreement and any and all schedules and exhibits attached to it or incorporated in it by reference
“ Commission Land ”	land owned by or leased to the Commission in Scotland and England
“ District Office ”	a Forest District Office of Forest Enterprise, an executive agency of the Forestry Commission
“ Events ”	Trials, Enduro and Rally events and such other categories of motor sports events authorised by the Union as may be approved by the Commission from time to time
“ FC Permit ”	a permit in the form contained in Part 3 of Schedule 1, as such form may be amended from

	time to time by written agreement between the parties
“Forest District”	a Forest District of Forest Enterprise, an executive agency of the Forestry Commission
“Incident Management Plan”	the plan drawn up by the Organiser to deal with major and unplanned incidents in accordance with the current version of the <i>Procedures & Safety Arrangements</i> (applicable only where significant spectator numbers are expected)
“Registered Club”	a motor club or affiliated body registered with the Union for the provision and organisation of motor sports events
“Safety Plan”	the plan drawn up by the Organiser in accordance with <i>Procedures & Safety Arrangements</i>
“Schedule 1”	the Schedule annexed to this Agreement
“Term”	the period commencing on 1 January 2016 and terminating on 31 December 2018

2. UNDERTAKINGS BY BOTH PARTIES

2.1 The Commission and the Union agree that:

- 2.1.1 they will both at all times work together to achieve the safe running of Events, the safety of other recreational users and other legitimate forest users;
- 2.1.2 they will both at all times work together to co-operate and to liaise, to ensure that the Union’s activities on Commission Land are not interrupted or adversely affected by any act or omission of the Commission; and that the Union’s activities have as little impact as possible on access by other recreational users and other legitimate forest users;
- 2.1.3 subject to **clause 2.2**, they will not disclose to any third party any confidential business or future plans of the other party at any time acquired during the existence of this Agreement and no reference shall be made to the terms of this Agreement by either party in any advertising, publicity or promotional material or (with the exception of a summary of this Agreement as may be agreed between the parties for circulation to Registered Clubs) to any third party without the prior consent of the other party;
- 2.1.4 they have entered into a written Concordat, as published from time to time, which is not legally binding but sets out how the parties intend to co-operate in and implement certain matters relating to Events;
- 2.1.5 they will meet to discuss and review the operation of this Agreement at least once in each calendar year during the Term; and
- 2.1.6 they will work together to develop sustainable solutions to minimise (and where possible avoid) adverse impacts on the environment of motorcycling and related event management and commercial operations. Where examples of good practice exist, they should be adopted where practicable.

2.2 The parties acknowledge that the Commission may receive requests from third parties to disclose certain confidential information in terms of the Freedom of Information Act 2000, the Freedom of Information (Scotland) Act 2002, the Environmental Information Regulations 2004

and the Environmental Information (Scotland) Regulations 2004, and in each case, any statutory amendment thereof or provision pursuant thereto (collectively "Freedom of Information Acts"). Where the Commission feels that such disclosure is necessary to enable it to meet its obligations under that Act, it will advise the Union prior to disclosing the information to the relevant third party. The Union acknowledges that any such disclosure by the Commission will not constitute a breach of **clause 2.1.3** or of any other of the Commission's obligations under this Agreement.

3. COMMISSION'S UNDERTAKINGS

The Commission undertakes, warrants and agrees that:

- 3.1 The Commission is the owner or lessee of the Commission Land and is free to enter into this Agreement (except in so far as permission may be required from the Commission's tenants or landlords under **clause 2.2** of the **FC Permit**);
- 3.2 The Commission agrees that it will keep the Union informed at all times of all relevant actions (including timber contracting operations), other than those directed by the Union, which it intends to carry out on Commission Land that might affect the use of Commission Land by the Union and the Registered Clubs;
- 3.3 The Commission agrees that where appropriate, it will work with event organisers to create specific spectator areas;
- 3.4 The Commission will endeavour to arrange for temporary cessation of contract operations by contract holders on Commission Land affected by an Event or Training or Preparatory Session for the duration of the Event or Training or Preparatory Session. In the event that an agreement cannot be reached with a contractor, the Commission may require the Event or Training or Preparatory Session to be re-routed or cancelled in which case **clause 5.8** will apply;
- 3.5 *[England only]* When any Commission Land on which it is proposed that an Event takes place becomes or is already "Access Land" within the meaning of the Countryside and Rights of Way Act 2000, the Commission will use reasonable endeavours to secure all such restrictions or exclusions to public access to such land which are considered necessary by it for the operation of such Event. If restrictions or exclusions to public access to such land are refused, this refusal shall be considered an operational constraint in terms of **clause 5.5** and the Commission may require the Event to be re-routed or cancelled, in which case **clause 5.8** will apply. Land closure shall not be required for Trials;
- 3.6 Where the Commission permits a sales outlet for refreshments within Commission Land, it will ensure that the Union is advised of the details of the outlet so that the location of the outlet can be agreed with the provider of the service. The Commission will ensure that the provider of the service is responsible for the control of litter arising from the exercising of that permission;
- 3.7 The Commission will ensure that all its staff working in the Forest District where the Event or Training or Preparatory Session is to take place are notified of the Event or Training or Preparatory Session; and
- 3.8 The Commission will take reasonable measures to publicise Events, including on web sites, and to provide advice to other forest users on the limitations to their activities for the duration of the Event.

4. UNION'S UNDERTAKINGS

The Union undertakes, warrants and agrees that:

- 4.1 The Union will take all reasonable measures to ensure that the Registered Clubs will at all times abide by the *Procedures & Safety Arrangements* document, and any other relevant

safety guidance it produces, as well as ACU Regulations it issues from time to time in the ACU Yearbook;

- 4.2 The Union will take all reasonable measures to ensure compliance by Registered Clubs with the terms of FC Permits issued to those Registered Clubs;
- 4.3 The Union will take all reasonable measures to ensure the safe and responsible conduct of all participants, officials, licensees, contractors and staff involved in Events. It will take all reasonable measures to ensure the safe and responsible conduct and behaviour of spectators;
- 4.4 The Union will publish an up-to-date list of all events sanctioned by the Union. This may be published online or communicated directly to the Commission;
- 4.5 The Union will appoint a Forestry Liaison representative. The terms of reference for Forestry Liaison Officers are set out in **Part 2 of Schedule 1**;
- 4.6 The Union will ensure that the Commission is notified without delay of any accident involving injury to participants, spectators or any third parties where the Medical Services dispatch to, or recommend that someone goes direct to hospital, or any other serious incident arising from the use of Commission Land for Events carried out under the terms of this Agreement;
- 4.7 *[Scotland only]* If any land on which it is proposed that an Event takes place is land in respect of which “access rights” may be exercised pursuant to the Land Reform (Scotland) Act 2003, the Organiser will use reasonable endeavours to secure all such restrictions or exclusions of access to such land which are considered necessary for the operation of such Event. This includes the securing of a Section 11 closure (including the closure of core paths) under the provisions of the Land Reform Act (Scotland) 2003. If restrictions or exclusions to public access to such land are refused, this refusal shall be considered an operational constraint in terms of **clause 5.5** and the Commission may require the Event to be re-routed or cancelled, in which case **clause 5.8** will apply.

5. **EVENT AUTHORISATION AND HOSTING**

- 5.1 The Commission hereby grants the Union the exclusive right for its Registered Clubs to organise and operate Events on Commission Land throughout the Term, subject to the terms and conditions of this Agreement. The Commission reserves the right to exclude particular clubs for specified reasons.
- 5.2 Only Events for which the Union has signified its approval by granting an organising Permit or the event is of a kind for which the Union has granted exemption from its Regulations will be permitted to use roads or tracks within Commission Land. The approval granted by the Union to the relevant Registered Club shall expressly state that such approval is provisional and conditional upon the receipt by the relevant Registered Club of an FC Permit from the Commission. In the event that the Union receives written notice from the Commission that a Registered Club has not complied with the terms of an FC Permit, the Union shall not thereafter grant approval in principle to that Registered Club for further Events without the prior agreement of the Commission.
- 5.3 The Union shall give the Commission not less than six months provisional notice in writing of the proposed dates, timings and routes for all Events proposed by Registered Clubs and approved in principle by the Union. In the case of Events, such notice shall also include the details specified in **clause 5.4**. The Commission will consider each proposed Event and Training or Preparatory Session at its discretion but in accordance with the criteria set out in **clause 5.5**. It will then inform both the Union and the relevant Registered Club of its decision. Permission shall not be granted unless that six months’ provisional notice in writing has been given by the Union. If permission is granted, and following submission of an application by the Registered Club as per **clause 5.5**, the Commission shall issue an FC Permit to the Registered Club. Such permission shall be conditional upon:

- 5.3.1 undertaking by the Registered Club to pay the FC Permit fee as set out in **Part 1 of Schedule 1**; Payment is based on entry numbers, payable post-event.
 - 5.3.2 written acceptance of and compliance with the terms of the FC Permit by the Registered Club;
 - 5.3.3 delivery to the relevant District Office of a copy of the Union's approval for the proposed Event via a completed F001 form;
 - 5.3.4 receipt by the Commission of any permission referred to in the FC Permit.
- 5.4 The details to be notified by the Union pursuant to **clause 5.3** in respect of Events approved in principle by the Union shall include a map at a scale of not less than 1:50,000, setting out the following information:
- 5.4.1 proposed route;
 - 5.4.2 proposed start and finish points;
 - 5.4.3 proposed service areas;
 - 5.4.4 (without prejudice to **clause 10.1.5**) any proposed grandstands or other designated viewing areas;
 - 5.4.5 (without prejudice to **clause 10.1.4**) any proposed sales kiosks and/or other sales outlets;
 - 5.4.6 any proposed car parks and access routes.
- 5.5 Prior to the event the Registered Club must submit a written application to the Commission containing sufficient information to show how the conditions contained in the FC Permit will be met. The application must contain the information required by paragraphs 1 (Event details) and 4 (Health and safety) in Part 3 of the FC Permit. The Commission will consider each application taking into account the points in 5.5.1 to 5.5.3. Only one application is required for each event, even if the event will take place across more than one Forest District.
- 5.5.1 the standard of organisation of previous events;
 - 5.5.2 environmental or operational constraints;
 - 5.5.3 compliance by the relevant Registered Club with any FC Permit previously issued to that Registered Club in respect of any other Event during the Term.
6. **EVENT CHARGES**
- 6.1 In consideration of the rights granted under **clause 5**, the Union shall pay to the Commission charges in respect of each Event taking place within Commission Land (whether solely or partly) in accordance with **Part 1 of Schedule 1**.
 - 6.2 If an Event in respect of which six months provisional notice in writing has been given by the Union to the Commission in accordance with **clause 5.3** is cancelled by the Union or the relevant Registered Club by serving notice in writing on the relevant Forestry Commission Contact for the area in which the Event was due to take place (as set out at **Part 2 of Schedule 1**) or on such other individual as the Commission advises the Union of in writing from time to time within twelve weeks of the agreed date of the Event, a cancellation fee (amounts specified in **Part 1 of Schedule 1**) will be payable to the Commission by the Union.
 - 6.3 Trade stands, catering outlets, grandstands, commercial filming, corporate hospitality or car parking (other than the use of existing FC chargeable car parks) may be subject to additional

permissions, issued separately as required. See also 10.1.4/5/6 and part 3 (permit), paragraph 7.

7. INDEMNITY

7.1 Except to the extent that the Commission is negligent, the Union shall indemnify, and keep indemnified, the Commission from and against any liability, loss, damage, claims, costs, expenses or proceedings whether arising under statute or common law sustained by the Commission in consequence of:

7.1.1 personal injury (and/or death) of any person; or

7.1.2 loss or damage to property (other than to the roads and tracks on Commission Land to the extent used in the Event), if and to the extent that such injury or damage is connected with, arises out of or is caused by the Union or a Registered Club's negligence, omission, default or breach of this Agreement or an FC Permit or the negligence, omission, default or breach of any person for whom the Union or a Registered Club is responsible in law, provided that the Union's liability under this **clause 7.1** for loss or damage to property shall not exceed £30,000,000 in respect of any one claim.

7.2 Without prejudice to **clause 7.1**, the Union shall indemnify, and keep indemnified, the Commission against any liability, loss, damage, claims, costs, expenses or proceedings arising as a result of a pollution incident provided always that such an incident takes place in its entirety at a specific and identified time and place during the period of the Event, Training or Preparatory Session or other permitted reconnaissance and arises solely from an incident on such Event, Training or Preparatory Session or other permitted reconnaissance.

8. INSURANCE

8.1 On behalf of both parties hereto the Union will immediately effect and maintain with reputable insurance underwriters an insurance policy covering all liabilities under this Agreement and all risks normally insured against in accordance with the customary practice of prudent Event organisers including, without limitation, third party public liability indemnity, insurance in relation to the health and safety of all staff, spectators, participants, any third parties and all equipment brought onto Commission Land and such other insurances as may from time to time be reasonably required by the Commission (and the Union will procure that the Commission and each Registered Club are noted as an additional insured on such insurances) for an amount of not less than £10,000,000 in respect of any one claim and shall supply to the Commission a copy of each and every insurance policy effected hereunder and evidence that the premium relating to these insurances has been paid in full. The Union will meet any self-insured retention in the event of any claim.

8.2 The Union shall use its best endeavours to observe and perform all the warranties and conditions in such policies and shall ensure that all premiums are paid when due and the policies are maintained in full force and effect and the Union undertakes not to do anything which may invalidate or render void, in whole or in part, the insurance policies required under **clause 8.1**.

8.3 The Union shall notify the Commission on becoming aware of any occurrence which may give rise to a claim under one or more of the insurances referred to in **clause 8.1** above by serving notice in writing on the relevant Forestry Commission contact for the area in which the occurrence which may give rise to a claim has taken place (as set out at **Part 2 of Schedule 1**) or on such other individual as the Commission advises the Union of in writing from time to time.

8.4 The Union shall notify the Commission immediately on becoming aware of any failure by any act or omission of the Union to effect or maintain the insurances referred to in clause 6.1 above by serving notice in writing on the Commission.

8.5 If the Union fails by its own act or omission to effect or maintain any such insurance, regardless of whether the Union complies with its obligation to inform the Commission of its failure to do so pursuant to **clause 8.4**, the Commission may without prejudice to any other remedy in respect of such failure:

8.5.1 instruct the Union that all Events to be held under this Agreement shall be suspended and the Union must take all necessary steps to suspend such Events with immediate effect; and

8.5.2 take out such insurance as the Commission may reasonably think necessary and recover from the Union the amount of the premiums.

9. **PRE-EVENT RECONNAISSANCE**

9.1 The Commission will consider requests for pre-Event reconnaissance (but not practice) by mutual consent.

9.2 Permission for pre-Event reconnaissance may be granted subject to the condition that the Commission may impose any restrictions as are considered necessary, including speed restrictions.

10. **RESERVED RIGHTS**

10.1 For the avoidance of doubt, this Agreement does not confer rights on the Union, the Registered Clubs or any other person associated with the Events:

10.1.1 to charge any fees to persons wishing access to Commission Land to view the Events (whether by way of entrance fees, car parking or otherwise), save to the extent permitted for a particular Event by the FC Permit relating thereto;

10.1.2 to land helicopters on Commission Land other than the Union's "official" helicopters comprising an air ambulance or safety helicopter;

10.1.3 to provide any sales outlets for the sale of refreshments, merchandise or any other items within the Commission Land, save to the extent permitted for a particular Event by the FC Permit relating thereto;

10.1.4 to erect grandstands or other similar structures on Commission Land and operate hospitality, save to the extent permitted for a particular Event by the FC Permit relating thereto;

10.2 The Union understands and agrees that no rights are granted under this Agreement with respect to trade mark(s), devices or insignia owned or controlled by the Commission and that all rights in and to such trade mark(s), devices or insignia are reserved exclusively to the Commission.

10.3 The grant of any of the rights referred to in **clause 10** will be subject to a separate agreement between the Commission, the party seeking such grant and the Union and all legal fees, expenses and Value Added Tax incurred by the Commission in preparing and negotiating such an agreement shall be paid by the party seeking such grant.

11. **MEDIA RIGHTS**

The Commission hereby grants the Union the media rights set out in **Part 5 of Schedule 1**.

12. **ARBITRATION**

12.1 If the parties fail to agree on any matter, and resolution is not possible at local level, the matter should be escalated through managers up to CEO level. Where necessary, and as a

last resort, an independent person can be appointed, for example through the Royal Institution of Chartered Surveyors (RICS) Dispute Resolution Service.

13. **TERMINATION**

- 13.1 This Agreement shall terminate at the expiry of the Term, but such termination shall be without prejudice to any provision clearly intended to operate thereafter.
- 13.2 In addition to any rights and remedies at law either party may, by giving written notice to the other party, terminate this Agreement on the following grounds:
- 13.2.1 on the giving of 12 months' notice in writing to the other party (provided that such notice shall only be given if the party who wishes to terminate has previously advised the other party in writing of its intention to terminate and has consulted with that party in good faith regarding the proposed termination);
 - 13.2.2 where either party has failed to account or make payments as required under this Agreement;
 - 13.2.3 where either party has committed a serious breach of its obligations under this Agreement unless such party rectifies the position, as far as reasonably possible, within 30 days;
 - 13.2.4 where either party goes into voluntary or involuntary liquidation;
 - 13.2.5 where either party is declared insolvent either in bankruptcy proceedings or other legal proceedings;
 - 13.2.6 where an agreement with creditors has been reached by either party due to its failure or inability to pay its debts as they fall due; or
 - 13.2.7 where a receiver is appointed over the whole or part of either party's business.
- 13.3 Termination in accordance with this **clause 13** shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either party.

14. **ASSIGNMENT**

The Union shall not be entitled to assign, licence or sub-licence any or all of its rights or obligations under this Agreement without first receiving the Commission's prior written permission to do so. Notwithstanding the foregoing the Commission acknowledges that it will not unreasonably withhold or delay its consent to the assignment by the Union of its rights and obligations under this Agreement to a wholly owned subsidiary.

15. **FORCE MAJEURE**

In the event that this Agreement cannot be performed or its obligations fulfilled for any reason beyond the reasonable control of either party including war, industrial action, floods, Acts of God then such non-performance or failure to fulfil its obligations shall be deemed not to be a breach of this Agreement. In the event that this Agreement cannot be performed or its obligations fulfilled for any reason beyond either party's reasonable control for a continuous period of six months then either party may, at its discretion, terminate this Agreement by notice in writing at the end of that period.

16. **NOTICE**

Any notice or other communication required to be given or made hereunder shall be made in writing and served upon the parties at their respective addresses set out herein (or at such other addresses as the parties may notify to the other) by first class post, recorded delivery,

electronic communications or by facsimile and shall be deemed to have been given in the case of first class post and recorded delivery 48 hours after posting and in the case of personal delivery or facsimile when received.

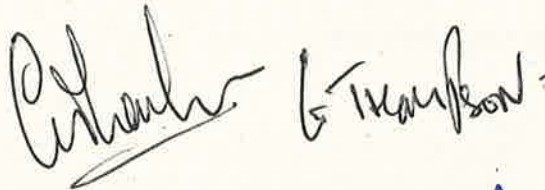
17. **GENERAL**

- 17.1 The clause headings in this Agreement are for ease of reference only and shall not affect its construction.
- 17.2 This new Master Agreement contains a complete understanding between the parties and supersedes all prior agreements (including, with effect from 1 January 2016, the previous Master Agreement) and understandings whether written or oral pertaining thereto and cannot be modified except by written instrument signed by both parties hereto.
- 17.3 If any provision of this Agreement shall be prohibited by or adjudged by a Court to be unlawful, void or unenforceable such provision shall to the extent required be severed from this Agreement and rendered ineffective so far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances or the validity or enforcement of this Agreement.
- 17.4 Nothing contained in this Agreement shall or shall be deemed to constitute a partnership or a joint venture or contract of employment between the parties.
- 17.5 This Agreement shall be governed by and construed in accordance with the laws of Scotland and England, as appropriate.

IN WITNESS WHEREOF these presents consisting of this and the ten preceding pages together with **Schedule 1** annexed hereto are subscribed as follows:

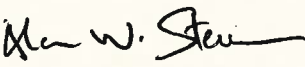
Signed:

Auto Cycle Union



Signed:

Forestry Commission Scotland



Signed:

Forestry Commission England



For Scotland only

Signed:

Scottish Auto-Cycle Union

SCHEDULE 1

Part 1 – Charging and Invoicing Arrangements

Forestry Commission and the Auto Cycle Union Limited Agreed Fees For 1 January 2018 to 31 December 2020

		2018	2019	2020
Event charge Enduro (flat rate/event)	These will be competitive long distance events of endurance and reliability, usually taking place off forest roads.	£486	£525	£567
Supplement per participant/day		£4.75	£5.15	£5.55
Event charge Trials (flat rate/event)	These will be competitive trials of skill and balance over a variety of observed natural obstacles, where riders incur penalties for footing or failure to fulfil other conditions. They usually take place in quarries, or over small areas of land.	£319	£345	£372
Supplement per participant/day		£3.20	£3.45	£3.70

Notes

- a. VAT is applicable at prevailing rate. As at May 2017, these events are exempt from VAT
- b. These fees will be reviewed and revised by 1 June 2020, for events on and after 1 January 2021.

Part 2 – Forestry Liaison and Forestry Commission Contacts

Forestry Liaison for England will be dealt with by the ACU Office.
Forestry Liaison for Scotland will be dealt with primarily by Scottish Auto Cycle Union.

Terms of Reference

The Forestry Liaison representative will liaise with the Union, the Commission and Registered Clubs, to ensure that the best use is made of Commission Land.

The ACU deals directly with Clubs who individually apply to the Forest District. Any liaison would be direct with the ACU Office. The control is via the F001 form.

The current Liaison Officer for England is David Willoughby.

Forestry Commission contacts (at May 2016)

Scotland	Alan Stevenson	alan.stevenson@forestry.gsi.gov.uk
England	David Williamson	david.williamson@forestry.gsi.gov.uk

The Commission has appointed members of staff as Motorsport Liaison Officers (MLO) to manage each approach made for a rally. Their names and contact details can be obtained through local Forest District Offices, found on the [Forestry Commission Scotland](#) and [Forestry Commission England](#) websites.

Part 3 – Permit

Granted by:

THE FORESTRY COMMISSION constituted under the Forestry Acts 1919 to 1945 and having its principal place of business at 231 Corstorphine Road, Edinburgh EH12 7AT (“the Commission”);

To:

..... (name of organisation, club or individual); of

..... (address of organisation, club or individual)

..... (“the Organiser”)

(Capitalised terms used, but not defined, in this Permit shall have the same meaning as in the Agreement between the Commission and the Auto Cycle Union (the “Union”) dated 16 May 2016 (“the Master Agreement”).) Clause headings in this Permit are for ease of reference only and shall not affect its construction. References to the Schedule are to the Schedule annexed to this Permit.

1. EVENT DETAILS

This Permit relates to the Event further described as follows:

Event:

[Insert details of event, e.g. an Enduro event and/or Training or Preparatory Session]

Location(s): as detailed on the Map forming Part 1 of the Schedule attached hereto (“the Map”);

For the avoidance of doubt, the Map shows the permitted routes for the Event and all other areas to be utilised by the Organiser in connection with the Event including:

- all car parking and viewing areas (and only those car parking and viewing areas shown on the attached map are permitted under this Permit);
- all routes to be used by spectators (and only those spectator routes shown on the attached map are permitted under this Permit);
- spectator ‘no-go’ areas;
- significant man-made hazards such as overhead power lines and underground services, and significant natural hazards such as bodies of deep water and unfenced drops;
- all sites to be used for trade stands, catering outlets, car parks and toilets (and only those sites for trade stands, catering outlets, car parks and toilets shown on the attached map are permitted under this Permit).

The Map also shows all Commission authorised recreational facilities (such as car parks, walking paths, bridle paths and cycle routes) and indicates which areas of Commission Land (if any) are closed to the Organiser, participants in the Event and those members of the public given access to the Location by the Organiser (the “Closed Areas”) and the Organiser hereby acknowledges and agrees that access to these areas is not permitted under this Permit.

Event Date(s):

Event Time(s):

Estimated number of participants:

[PERMIT FEE (AND ADMINISTRATION FEE RE EXCLUSION OF ACCESS TO ACCESS LAND IN ENGLAND) – PAYABLE PRIOR TO ISSUE OF PERMIT. UNDER THIS AGREEMENT, THE ORGANISER HAS AN OBLIGATION TO PAY IF NOT PAID UPFRONT]

2. GRANT OF PERMISSION

2.1 Subject to the Organiser's compliance with the terms of this Permit and the performance of its obligations hereunder, the Commission hereby grants permission to the Organiser to organise the Event on Commission Land at the Location(s) and on the Date(s) and at the Event Time(s) specified in **clause 1**.

2.2 If, in the reasonable opinion of the Commission, the Commission's tenants and/or landlords or other persons having an interest in the Location(s) (including, without limitation, all holders of contracts to provide services to the Commission) are likely to be affected by the Event, the Commission shall notify the Organiser of such not less than three months prior to the first Event Date. The Organiser shall (not less than 28 days prior to the first Event Date) give written notification to all such persons of the Event. In the event that the Commission requires permission for the Event from any such person, the Commission will use all reasonable endeavours to obtain such permission. In the event that such permission is refused, the Commission may revoke any permission already granted, in which case **clause 2.4.1** will apply.

2.3 The Commission shall ensure that:

2.3.1 all relevant Commission staff are notified of the Event, the Event Date(s), the Event Time(s) and the Location(s) to be used for the Event; and

2.3.2 the Organiser is notified of any alterations made by the Commission to the permitted routes for the Event and all other areas to be utilised by the Organiser in connection with the Event in the period between the issuing of this Permit and the first date of the Event. The Commission recognises that the Event Safety Plan may have to be revised as a result of any changes made by the Commission; and

2.3.3 the Organiser is informed in advance of any speed limits in force on any roads to be used during the Event;

2.4 The Commission reserves the right to:

2.4.1 revoke permission for the use of any route, at any time by notice given to the Organiser in writing, and require the Event to be cancelled or rerouted. This right will be used only in exceptional circumstances and wherever possible the Commission will make every effort to provide an alternative route. If any Event is cancelled because permission has been so revoked no compensation will be paid by the Commission to the Organiser or any other persons; and

2.4.2 deny access to Commission Land or any part thereof to any person or persons whatsoever whose presence whether during the Event or Training or Preparatory Sessions or at any other time may, in the Commission's reasonable opinion, be or become detrimental to the Commission's reputation or commercial or financial interests or the interest of any of the Commission's tenants and/or landlords or other persons having an interest in Commission Land.

2.5 Any dispute would be subject to arbitration as set out in **Section 12**.

3. PRE-EVENT CHECKLIST

- 3.1 The day before the first Event Date, the Organiser shall complete and return to the Representative of the Commission a completed copy of the Pre-Event Checklist contained within Part 3 of the Schedule. The Organiser acknowledges and agrees that failure to do so will render this Permit invalid.
4. **HEALTH AND SAFETY**
- 4.1 The Organiser acknowledges and agrees that on the Event Date(s) the Organiser shall have exclusive management and control of the Location(s).
- 4.2 The Organiser will be responsible for all spectator control associated with the Event including, without limitation, the movement of spectators to and from all Event viewing areas and control of spectators within all such viewing areas, with the exception of control of spectators in car parks specifically managed by the Commission.
- 4.3 Not less than 3 months prior to the first Event Date, the Organiser shall prepare a “**Safety Plan**” for the Event. The risk assessment which the Safety Plan includes will identify hazards and evaluate risks to the health and safety of the Organiser’s employees or officers, Event participants, spectators or any other person who might reasonably be expected to be present within the vicinity of the proposed Event. The draft Safety Plan will be submitted to the ACU and the Commission at least 3 months before the Event. The Organiser acknowledges and agrees that failure to do so will render this Permit invalid. The content of each Safety Plan will be in accordance with guidance contained in the current version of the ACU’s *Procedures & Safety Arrangements document*. The Organiser shall also prepare an “**Incident Management Plan**” and operational plans for all officials/roles. The Organiser shall also take all steps required by the Commission to improve safety and shall complete the same prior to the first Event Date and the Organiser acknowledges and agrees that failure to do so will render this Permit invalid.
- 4.4 The Organiser shall take all reasonable measures to protect the safety of all Event participants, spectators and all others likely to be within the vicinity of the Event, including other users of the Location(s) and shall make all arrangements reasonably required including, without limitation:
- 4.4.1 providing Event route signing;
 - 4.4.2 providing marshalling (in accordance with the Safety Plan prepared in line with the ACU *Procedures & Safety Arrangements*), security, signing and other reasonable measures as necessary to:
 - 4.4.2.1 warn the general public of the Event;
 - 4.4.2.2 ensure the safety of Event participants and spectators;
 - 4.4.2.3 control media access to the Event to ensure that media representatives remain within permitted areas and do not enter Closed Areas;
 - 4.4.2.4 prevent the use of fireworks and the starting of fires or barbeques within or in the vicinity of Commission Land; and
 - 4.4.2.5 prevent access to the Location(s) to people other than Event participants and spectators;
 - 4.4.2.6 protect any equipment or structures on Commission Land;
 - 4.4.3 checking of the Location(s) both before, during and after the Event;
 - 4.4.4 making arrangements for first-aid provision and medical assistance at the Location(s);
 - 4.4.5 providing all reasonable fire prevention and fire-fighting measures at the Location(s);

- 4.4.6 reporting any hazards created or remaining following the Event to the Commission;
- 4.4.7 liaising with the local police and emergency services, mountain rescue and other agencies where appropriate.

5. ORGANISER OBLIGATIONS

- 5.1 The Organiser will, immediately upon request from the Commission to do so:
 - 5.1.1 eject or exclude (or procure the ejection or exclusion) from Commission Land any person or persons acting in any way, or any installation or material of any nature whatsoever, which, in the reasonable opinion of the Commission, is or may be undesirable or illegal;
 - 5.1.2 procure cessation of any activity in any part or parts of the Commission Land used for the Event which in the reasonable opinion of the Commission, is or may be undesirable or illegal; and
 - 5.1.3 not do or use or bring into the Commission Land or any part thereof or permit or suffer to be done or used in or brought into the Commission Land or any part thereof any act or thing which, in the reasonable opinion of the Commission, is or may be undesirable or illegal.
- 5.2 The Organiser will reimburse the Commission forthwith on presentation of appropriate invoices any reasonable costs incurred in relation to additional consumption of gas, electricity or other utilities during the Event or any Training or Preparatory Sessions organised by the Organiser. The Organiser will also reimburse the Commission for any telephone calls made from Commission Land by the Organiser or its employees except in so far as they shall provide for their own telephone facilities.
- 5.3 The Organiser shall reinstate and make good at its sole cost and to the Commission's satisfaction the Location(s) to the state they were in prior to the first Event Date. If the Location(s) are not so reinstated within seven working days of the conclusion of the Event, the Commission reserves the right to undertake such work and charge the reasonable cost of same to the Organiser.
- 5.4 The Organiser will be responsible for and shall bear the full cost of:
 - 5.4.1 all necessary consents required to run the Event over Public Rights of Way;
 - 5.4.2 compliance with any regulations and legislation affecting the Event and the health and safety of all competitors, officials and staff involved in each Event and all others permitted access to the Location(s) under this Permit including, without limitation, all European Community, national and local laws, regulations, codes of practice, guidance notes and the like issued by statutory or trade bodies in the United Kingdom and any statute, regulation, statutory instrument or legislative provision which amends, extends, consolidates or replaces same from time to time (or shall have done so) and any other regulation, statutory instrument or subordinate legislation made thereunder or pursuant thereto concerning the health, safety, training and competence of any person or persons present within Commission Land.
- 5.5 No artificial hazards or chicanes will be constructed or placed on Commission Land without the prior written consent of the Commission. The Organiser will, immediately after each Event, reinstate and make good at its sole cost and to the Commission's satisfaction, or at the option of the Commission pay the reasonable cost of reinstating and making good, those parts of Commission Land upon which artificial hazards or chicanes have been constructed or placed. They should be included in the map and safety plan as the event is planned.

- 5.6 Without prejudice to the generality of **clause 5.4.2**, the Organiser will ensure that all necessary control measures are available on site to prevent and/or remedy any pollution incidents arising directly or indirectly out of the exercise of the rights granted to the Organiser under this Permit.
- 5.7 Without prejudice to the generality of **clause 5.4.2**, the Organiser shall ensure that the Forestry Commission Byelaws (where in force) are observed. A copy of the Forestry Commission Byelaws may be obtained from the Forest District Manager. In particular, but without limitation, the Organiser shall ensure:
- 5.7.1 there is no lighting of fires on Commission Land;
 - 5.7.2 no fireworks are used within or in the vicinity of Commission Land;
 - 5.7.3 all gates are left in the same position as found;
 - 5.7.4 reasonable care is taken to prevent disturbance to wild fauna and flora and to agricultural livestock;
 - 5.7.5 sufficient litter receptacles are provided and that these are emptied regularly and that all litter is removed from Commission Land to an appropriate refuse collection centre (the Commission reserves the right to make good any default in litter collection and removal and to recover costs from the Organiser);
 - 5.7.6 no caravans, tents, booths or stalls of any kind are erected on Commission Land except as expressly authorised under this Permit;
 - 5.7.7 nothing is sold, offered for sale or distributed on Commission Land except as expressly authorised under this Permit; and
 - 5.7.8 any instructions issued by the Commission's Representative or his authorised representative are complied with.
- 5.8 Without prejudice to the generality of **clause 5.4.2**, the Organiser will ensure that all vehicles participating in any Event or Training or Preparatory Session or otherwise using the roads or tracks on the Commission's Land in relation to that Event or Training or Preparatory Session at all times comply with the speed limits in place over such roads and tracks (save when the Event is underway and the road or track is in use competitively or by safety cars or by emergency vehicles). The Commission reserves the right to:
- 5.8.1 install such traffic management restrictions as it shall require; and
 - 5.8.2 if any vehicle exceeds the speed limit set in respect of any road or track on the Commission's Land (save when the Event is underway and the road or track is in use competitively or by safety cars or by emergency vehicles), impose a fine on the Organiser for such violation; and
 - 5.8.3 if a participant in the Event exceeds the speed limit set in respect of any roads or tracks on the Commission's Land and the Commission confirms to the Organiser that that individual has committed such a violation previously (whether before, during or after that same Event or any other Event during the Term), require the Organiser to immediately stop that individual participating in the Event.
- 5.9 The Organiser will be responsible for the provision, maintenance and cost of toilets and other facilities which may be required for the proper management of spectators, commensurate with the number and type of spectators expected at any site. The Organiser will be responsible for compliance with any regulations affecting the siting and management of such facilities.
- 5.10 The Organiser will promptly inform the Commission of:

- 5.10.1 any complaint relating to an Event received by the Organiser from any third party; and
- 5.10.2 any accident involving injury to participants, spectators or third parties or damage to Commission Land or property occurring during an Event or Training or Preparatory Session on Commission Land or any other serious incident arising from the use of Commission Land.
- 5.11 The Organiser will provide the Commission with an Event Log on the agreed form within 7 days of the end of each Event or Training or Preparatory Session which contains a detailed record of any incidents that took place at that Event or Training or Preparatory Session that the Organiser informed the Commission of pursuant to **clause 5.10.2**.
- 5.12 The Organiser shall accord the Commission "Official Supplier" status in respect of the Event and shall accord the Commission an attribution (in a form agreed between the parties) on all relevant event literature (including posters and programmes), the start/finish podiums, a banner on the flying banner service where available and a banner on any live stage and the display area at each Event HO.
- 5.13 The Organiser shall take all reasonable measures both to manage the Event in a reasonably sustainable manner and also to minimise (and where possible avoid) impact on the environment. Without prejudice to the foregoing generality, the Organiser shall work with the Commission to minimise so far as is reasonable the impact of rally cars on Commission Land, and shall adopt sustainable solutions for disposal of litter and waste, catering and all other aspects of management of the Event and exploitation of any commercial rights granted hereunder.

6. **CANCELLATION BY THE COMMISSION**

The Commission shall be entitled to immediately stop and/or cancel and/or postpone and/or re-route any Event at any time in the following circumstances:

- 6.1 If there is a failure by the Organiser to comply with the Safety Plan for the Event (for instance, with respect to the number of marshals or their training).
- 6.2 If there is any other situation as a result of which the Commission, acting reasonably, deems it necessary for the Event to be stopped and/or cancelled and/or postponed and/or rerouted in order to avoid damage to part of the Commission's Land (including forest roads) or to some part of the natural habitat or to any plant or animal that is found on the Commission's Land.

7. **COMMERCIAL RIGHTS**

The Commission may charge for commercial stands, trade stands, catering outlets, grandstands, corporate hospitality or car parks sited on Commission Land. However, the organiser must inform the MLO in advance of any commercial stands planned for the event and their location, as part of the event and spectator safety planning process, and in accordance with this permission document.

A separate arrangement may apply to extraordinary events (e.g. international championships).

8. RESERVED RIGHTS

- 8.1 For the avoidance of doubt this Permit does not confer rights on the Organiser or any other person associated with the Event:
- 8.1.1 to charge any fees to persons wishing access to Commission Land to view the Event (whether by way of entrance fees, car parking or otherwise) [save to the extent referred to in **clause 7**];
 - 8.1.2 to provide any sales outlets for the sale of refreshments, merchandise or any other items within Commission Land [save to the extent referred to in **clause 7**];
 - 8.1.3 to erect grandstands or other similar structures on Commission Land and/or to operate corporate hospitality facilities [save to the extent referred to in **clause 7**];
 - 8.1.4 to film, photograph or record the Event on Commission Land or to sub-licence any third party to do so, save to the extent licensed by the Union and subject to the terms, conditions and restrictions which apply to the rights granted to the Union;
 - 8.1.5 to use studded tyres on Commission Land;
 - 8.1.6 to land helicopters on Commission Land other than "official" helicopters comprising an air ambulance and the FIA safety helicopter without the express permission of the Commission.
 - 8.1.7 to offer corporate hospitality facilities, save to the extent permitted for a particular Event by the FC Permit relating thereto.

9. INDEMNITY

- 9.1 Except to the extent that the Commission is negligent, the Organiser shall indemnify, and keep indemnified, the Commission from and against any liability, loss, damage, claims, costs, expenses or proceedings whether arising under statute or common law sustained by the Commission in consequence of (i) personal injury (and/or death) of any person or (ii) loss or damage to property (other than to the roads or tracks on Commission Land to the extent used in the Event) if and to the extent that such injury or damage is connected with, arises out of or is caused by the Organiser's negligence, omission, default or breach of this Permit or the negligence, omission, default or breach of any person for whom the Organiser is responsible in law, provided that the Organiser's liability under this **clause 9.1** for loss or damage to property shall not exceed £10,000,000 in respect of any one claim.
- 9.2 Without prejudice to **clause 9.1**, the Organiser shall indemnify, and keep indemnified, the Commission on demand from and against any loss howsoever suffered or incurred by the Commission arising out of any breach (whether caused by an act or omission of the Organiser or any of its partners, employees, agents, members, licensees, contractors, sub-contractors or otherwise) of any of the obligations of the Organiser under this Permit.

10. GENERAL

- 10.1 The Organiser acknowledges and agrees that the Commission may pass contact details (including personal data) relating to the Organiser and its personnel to third parties who have permissions to operate at the Location.
- 10.2 The Organiser shall not be entitled to assign, licence or sub-licence any or all of its rights or obligations under this Permit.
- 10.3 Any notice or other communication required to be given or made under this Permit shall be made in writing and served upon the parties at their respective addresses set out herein (or at such other addresses as the parties may notify to the other) by first class post, recorded

delivery, electronic communications or by facsimile and shall be deemed to have been given in the case of first class post and recorded delivery 48 hours after posting and in the case of personal delivery, electronic communications or facsimile when received.

10.4 This Permit shall be governed by and construed in accordance with the laws of Scotland and England, as appropriate.

10.5 A copy of this Permit will be submitted by the Commission to the Union.

10.6 For the purposes of this Permit:

10.6.1 the Representative of the Commission is: [insert name]
(Contact telephone number: and contact address:
.....);

10.6.2 the representative of the Organiser is: [insert name]
(Contact telephone number: and contact address:
.....).

11. **[EVENT SPECIFIC REQUIREMENTS]**

11.1 *[Insert any Event specific provisions that the Commission may in its absolute discretion require.]*

..... Agreed and accepted:
for and on behalf of the Commission for and on behalf of the Organiser
(District Office)

Date: Date:

[PRINT TWO COPIES, BOTH PARTIES SIGN EACH COPY, ONE TO BE RETAINED BY THE COMMISSION, ONE TO BE RETAINED BY THE ORGANISER]

This is the **SCHEDULE** (consisting of Part 1, Part 2 and Part 3) referred to in the foregoing Permit granted by the Commission to the Organiser.

For and on behalf of the Commission

For and on behalf of the Organiser

Permit Schedule

Part 1

[attach map of Location(s)]

Permit Schedule Part 2 (Works) has been removed, as it is unlikely to be required for motorcycle events.

Permit Schedule

Part 3 – Pre-Event Checklist

To: [Commission Representative]
..... [Address of Commission Representative]
.....

From: [The Event Organiser]
..... [Address of the Event Organiser]
.....

Location(s): as detailed on the plan forming Part 1 of the Schedule attached the Permit (as defined below);

Event: [e.g.: a motor cycle Enduro Event];

Event Date(s):

Dear Sir,

Capitalised terms used, but not defined, in this Pre-Event Checklist shall have the same meaning as in the Permit relating to the Event granted by the Commission and dated: [insert date of Permit] ("the Permit").

I hereby confirm that:

I am an authorised signatory of the Event Organiser;

I have inspected the Location(s) on behalf of the Event Organiser and I accept that they are suitable for the purpose of hosting the Event;

the Event Organiser shall abide by the terms of the Permit relating to the Event granted by the Commission and, without prejudice to the generality of the foregoing, I further confirm that the Event Organiser has taken all steps required by the Union to identify all potential hazards, to assess the risks posed by such hazards and to remove or reduce the risk posed by such hazards to ensure compliance with all relevant health and safety legislation, regulations, codes of practice guidance notes and the like in force at the time of the Event including providing the Commission and the Union with the Safety Plan and Incident Management Plan for the Event;

the Event Organiser shall have exclusive management and control of the Location(s) on the Event Dates and I hereby acknowledge that responsibility for the Event and for the health and safety of all present within the Location(s) passes to the Event Organiser for the duration of the Event.

Signed:

Full Name:

Date:

Part 4 – Training Arrangements for Event Officials and Marshals

The Union will be permitted to carry out training sessions for Event officials and marshals subject to the following conditions:

1. Sessions will be used only for the purpose of training marshals in the safe control of spectators, competitors, the media and others.
2. No session will be authorised by the Union without the prior written approval of the Commission, which may include local conditions appropriate to the site, for example speed restrictions.
3. The Commission will not charge the Union for such sessions, except as may be reasonably necessary for the repair of any damage to the Commission's land and property, or any other costs arising as a consequence of the training session.

Part 5 – Media Rights

- 1.1 The Commission grants the Union the right to film, photograph or record any Event organised and operated on Commission Land and to license to any third party (including a Registered Club), with the prior approval of the Commission (which will not be unreasonably withheld), the right to do so under and subject to compliance by such third party with the terms and conditions set out in this Agreement PROVIDED ALWAYS that the material filmed, photographed or recorded pursuant to this Agreement may not be broadcast live and may be exploited only within:
 - 1.1.1 television and radio programmes broadcast in Great Britain and/or Northern Ireland, for the purpose of news coverage;
 - 1.1.2 terrestrial (including digital freeview) or cable television motor or sports programmes (excluding pay per view) broadcast in Great Britain and/or Northern Ireland;
 - 1.1.3 with the prior approval of the Commission, satellite motor or sports programmes (excluding pay per view);
 - 1.1.4 coverage of Events by radio;
 - 1.1.5 print media (excluding electronic newspapers and periodicals primarily available via the internet or world wide web).
- 1.2 The Union will nominate an authorised person who will liaise with the Commission in respect of locations, access and the numbers of ACU-accredited filming, media and broadcasting personnel to be provided with access to Commission Land. No special viewing positions will be provided to media personnel during the Event. Spectator no-go areas are also no-go areas for media personnel.
- 1.3 The Union will ensure that no vehicles owned by filming, media and broadcasting personnel may enter Commission Land without the prior written authority of the Commission's Forest District Manager who will specify which access routes may be used.
- 1.4 In the event of the Union granting any third party rights pursuant to **paragraph 1.1**, the Union undertakes to procure that those granted such rights will immediately effect and maintain with reputable insurance underwriters an insurance policy covering such risks as normally insured by prudent film, press and broadcasting operators.
- 1.5 For the avoidance of doubt this Agreement does not confer on the Union or its licensees the right to:
 - 1.5.1 broadcast live; or
 - 1.5.2 disseminate electronically for financial or commercial gain or otherwise the Events, or any part thereof, filmed, photographed or recorded pursuant to this Agreement on any and all online services or networks irrespective of the platform of software now known or hereafter invented and whether referred to as "internet", "intranet", "extranet" or otherwise and whether made available through any system of collation and distribution known as a web site or otherwise;
 - 1.5.3 develop prepare, reproduce, publish and sell, to distribute, transmit, download or otherwise make available electronic games software utilising recorded material derived from the Event or any part thereof on any platform or operating system.
- 1.6 The Union undertakes to respect, and procure all those to whom it grants permission to film, photograph, broadcast, record or report upon Events respect the Commission's continued use and occupation of Commission Land.

SIGNED by NAME)
duly authorised to sign for and on behalf of)
THE FORESTRY COMMISSIONERS)

SIGNED by NAME)
duly authorised to sign for and on behalf of)
AUTO CYCLE UNION)

SIGNED by NAME)
duly authorised to sign for and on behalf of)
SCOTTISH AUTO CYCLE UNION)

Schedule 2

Forest Enterprise Scotland contacts

Region	Contact details	Regional Visitor Services Manager
East	Huntly office: morayaberdeenshire@forestry.gsi.gov.uk Dunkeld office: tay@forestry.gsi.gov.uk	Justin Livesey
North	Inverness office: invernessrossskye@forestry.gsi.gov.uk Golspie office: northhighland.fd@forestry.gsi.gov.uk	Paul Hibberd
Central	Aberfoyle office: cowaltrossachs@forestry.gsi.gov.uk West Calder office: scottishlowlands@forestry.gsi.gov.uk	Stuart Chalmers
West	Fort William office: lochaber@forestry.gsi.gov.uk Lochgilphead office: westargyll@forestry.gsi.gov.uk	Robbie Layden
South	Newton Stewart office: galloway@forestry.gsi.gov.uk Ae office: dumfriesborders@forestry.gsi.gov.uk	Tim Oliver