

BMX TRACK LEASE AGREEMENT

THIS BMX TRACK LEASE AGREEMENT ("Lease") is made and entered into effective this ____ day of _____, 2025 ("**Effective Date**"), by and between **VIRGIN TOWN**, a Utah municipal corporation ("**Landlord**") and **MICHAEL LINARES**, an individual ("**Tenant**"). Throughout this Lease Landlord and Tenant may be referred to individually as a "**Party**" and collectively as "**the Parties**."

RECITALS

- A. WHEREAS Landlord is the owner of certain 10 acre parcel of real property located at 425 N Kolob Terrace Rd Virgin, UT 84779 (Assessor Parcel No. V-2-1-23-411) ("**Track Property**").
- B. WHEREAS the Track Property contains improvements including a gravel parking lot, various buildings, structures, and fences ancillary to an earthen BMX racetrack and an earthen BMX pump track which are the center of the Track Property (collectively "**Track Improvements**").
- C. WHEREAS Tenant desires to lease the Track Property from Landlord, under the terms and conditions stated herein.
- D. WHEREAS Landlord desires to lease the Track Property to Tenant, under the terms and conditions stated herein.
- E. WHEREAS the Parties desire to enter into this written Lease defining their respective rights, duties, obligations and liabilities relating to the demise of the Track Property.

AGREEMENT

NOW THEREFORE in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the Parties agree as follows:

- Grant of Leasehold. Landlord leases to Tenant, and Tenant takes as Tenant from Landlord the Track Property. The nature of the leasehold interest granted and conveyed to Tenant shall be that of a tenancy for years.
- Lease Commencement Date and Initial Term. The "**Initial Term**" of this Lease shall be three (3) years beginning on _____, 2025 (the "**Commencement Date**") and ending on _____, 2028. As used in this Lease, the term "**Term**" shall mean the Initial Term together with any Renewal Terms (as defined below), unless the context expressly indicates otherwise.
- Additional Renewal Terms. Unless either Party provides written notice of non-renewal to the other Party at least thirty (30) days prior to the expiration of the Initial Term or any Renewal Term, this Lease shall automatically renew for successive additional one (1) year periods (each, a "**Renewal Term**"), not to exceed a total of seven (7) Renewal Terms.
- Termination. This Lease may be terminated by either Party before the expiration of a Term by providing the other Party with no less than thirty (30) days' prior written notice of termination. Such notice shall specify the effective date of the termination and the date by which Tenant will have substantially vacated the Track Property. Termination under this Section shall not relieve either Party of any obligations or liabilities accrued prior to the effective date of termination, including but not limited to payment of Rent, indemnification obligations, and any other duties that by their nature are intended to survive termination.

5. Rent.

a. *Base Rent.* Tenant agrees to pay to Landlord as “**Annual Base Rent**”, without deduction, prior notice, or demand, at the address specified in this Lease or at such other place as Landlord may from time to time designate in writing, annual rent in the amount of ten dollars (**\$10.00**), said sum to be payable in lawful money of the United States on, or in advance of, the Commencement Date. Should this Lease automatically renew for an additional Renewal Term, such Annual Base Rent shall become payable on or before each successive anniversary to the Commencement Date.

b. *Late Payment.* In the event Tenant shall fail to pay the Annual Base Rent, or Additional Rent (defined below) (hereinafter collectively “**Rent**”) within thirty (30) calendar days of when due, then the Tenant shall be in default under this Lease and the Landlord shall have the rights upon default specified herein, including without limitation the right to terminate the Lease.

c. *Additional Rent.* All taxes, charges, costs and expenses that Tenant assumes or agrees to pay hereunder, and all other damages, costs, expenses, reasonable attorney's fees and other sums that Landlord may suffer or incur, or that may become due, by reason of any default of Tenant or failure by Tenant to comply with the terms and conditions of this Lease shall be deemed to be “**Additional Rent**” and, in the event of nonpayment, Landlord shall have all the rights and remedies against Tenant as herein provided for failure to pay Rent.

d. *Payments.* All payments shall be made to Landlord at 114 S Mill St., Virgin, UT 84779, or at such other address as Landlord may designate in writing.

6. Utilities. Landlord shall be responsible for and shall timely pay all utilities and utility services that are provided to the Track Property as of the Effective Date of this Lease (collectively, the “**Utilities**”). For the avoidance of doubt, the Utilities shall not include any utility services that are not provided to the Track Property as of the Effective Date. Notwithstanding the foregoing, Tenant shall be solely responsible for (i) the cost of all diesel fuel required for the operation of any generator serving the Track Property, and (ii) upon the availability of public electrical service to the Track Property, the cost and payment of all electricity consumed at the Track Property from and after such availability.

7. Authorized/Prohibited Uses.

a. Tenant shall use the Track Property for the following purpose(s), and for no other purpose(s) whatsoever, without the written consent of Landlord first had and obtained: *Operation of the Track Improvements for a BMX racetrack and a BMX pump track for racing, training, and instructional purposes* (“**Authorized Use**”).

b. Tenant shall not permit any act, sale, or storage of materials on the Track Property that may be prohibited by State or Federal law, Virgin Town’s ordinances, or under any insurance policy relating to the Track Property (“**Prohibited Material & Uses**”), regardless of whether the Prohibited Material & Uses were initiated by Landlord or Tenant.

c. The following shall also constitute a Prohibited Material or Use:

i. Use of the Track Property in such a way that results in (1) waste of Track Improvements and/or the Track Property. (2) a public or private nuisance, (3) the sale, storage, or preparation, of food, alcoholic beverages, or materials generating a noxious odor on and from the Track Property, (4) storage or placement of Contaminants (“**Contaminants**” being defined to mean (a.) waste, (b.) toxin, (c.) pollutant, (d.) hazardous

substance, as that term is defined in the Comprehensive Environmental Response, Compensation and Liability Act, as amended by 42 U.S.C. 9601, Seq., in applicable State and local statutes, (e.) any hazardous waste as defined in the Resource Conservation and Recovery Act as amended, in applicable State statutes and local ordinances, (f.) toxic substances, (g.) special waste, (h.) hazardous or toxic materials, or (i.) any constituent of any of the above contaminants.

d. Tenant shall comply with all Federal, state, and local regulations, statutes, and ordinances pertaining to use and occupancy of the Track Property and the Track Improvements. Tenant shall not permit the Track Property to be occupied for any purpose deemed disreputable or extra hazardous, or otherwise in violation of law.

8. Augmentation, Repair, and Maintenance of the Track Improvements.

a. *Tenant Responsibilities.* Except for the repairs to be performed by Landlord, Tenant, at Tenant's sole expense, shall keep and maintain in good order, condition and repair (including any such replacement and restoration as is required for that purpose) the Track Improvements, the Track Property, and every part thereof and any and all appurtenances thereto wherever located, including, without limitation, the earthen BMX racetrack and the earthen BMX pump track, all plumbing and sewage facilities within the Track Property, as well as all plumbing fixtures, lighting fixtures, hardware, fixtures, heating and air conditioning systems, electrical systems, irrigation systems, and septic waste water disposal systems which serve the Track Property. All repairs shall be performed in a timely basis. Likewise, Tenant shall perform regular maintenance as recommended by the manufacturer's specifications for the Track Improvements. Tenant shall be responsible for all repairs resulting from damage, abuse, or neglect by its employees, invitees, clients, or guests. Tenant shall be responsible for all repairs and maintenance of Track Improvements and items not specifically included below as being a responsibility of the Landlord. Finally, Tenant shall perform all regular maintenance and grooming of the earthen BMX racetrack surface, the earthen BMX pump track surface and related features in accordance with industry standards and best practices to ensure safety and usability for riders. This includes but is not limited to grading, watering, compacting, and reshaping as needed to maintain safe riding conditions. Tenant shall also cause there to be appropriate inspections so as to insure compliance with all track safety standards prescribed by USA BMX, the governing body for the sport of BMX in the United States.

b. *Landlord Responsibilities.* Landlord covenants and agrees, at its sole cost and expense and without reimbursement or contribution by Tenant, to keep and maintain in good condition and repair all surface drainage facilities on, and the access road to, the Track Property. Landlord shall not be obligated to repair any such damage until written notice of the need of repair shall have been given to Landlord by Tenant, and Landlord and Tenant determine in their reasonable judgment that repairs are necessary. Landlord shall have a reasonable time in which to make such repairs as are required. Except in the event of any emergency, Landlord shall not be liable to Tenant for failure to make repairs as herein specifically required unless Tenant has previously notified Landlord in writing of the need for such repairs and Landlord has failed to commence and complete said repairs within thirty (30) business days following receipt of such notification.

c. Notwithstanding any other provisions of this Lease to the contrary, Landlord shall not be obligated to make any repairs, replacements, or renewals of any kind, nature, or description, whatsoever, to the Track Property or improvements thereon, if the same are required due to the negligence, misuse or abuse of Tenant, its agents, employees or invitees. Under such circumstances, the obligation to repair, replace or renew shall be Tenant's, and shall include any costs and expenses related thereto.

9. Required Insurance.

a. *Insurance Companies.* It is agreed that all policies of insurance to be maintained in force by the respective parties hereto shall be obtained from good and solvent insurance companies that are duly authorized to do business in the State of Utah.

b. *Landlord to Obtain Public Liability Insurance.* Landlord shall, at its own expense, at all times during the term of this Lease, maintain in force a policy or policies of insurance, issued by an insurance company or companies with a general policy holder's rating of not less than A (or equivalent ratings if such are changed) as rated in the most current available "Best's Insurance Reports," against liability for injury to or death of persons or loss or damage to property occurring in or about the Track Property. Such insurance may, at Landlord's election, be carried under any general blanket coverage of Landlord. A renewal policy shall be procured not less than ten (10) days prior to the expiration of any such policy. Landlord shall have the right to settle and adjust all liability claims and all other claims against the insuring companies. Such insurance shall have minimum coverage limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) in the aggregate and said policy shall provide that Landlord be given thirty (30) days advance written notice of cancellation.

c. *Tenant's Waiver of Insurance Proceeds.* In the event the Track Property shall be damaged or destroyed by fire or other casualty so insured against, Tenant shall claim no interest in any insurance settlement arising out of any such loss, and it will execute all documents required by Landlord or the insurance company or companies that may be necessary for use in connection with settlement of any such loss.

10. Condition of the Property. Tenant has inspected and operated the Track Improvements and the Track Property prior to execution of this Lease and by executing the same, Tenant shall be deemed to have accepted the Track Property in its then existing condition and state of repair. Tenant agrees that no representations, statements, or warranties, express or implied, have been made by or on behalf Landlord in respect thereto except as contained in the provisions of this Lease and Landlord shall in no event be liable for any latent defects.

11. Alteration or Augmentation of the Track Improvements. Tenant may with the prior written consent of Landlord, which may be withheld in Landlord's sole discretion, and at Tenant's sole expense, make alterations or augmentations to the Track Property and the Track Improvements.

12. Landlord's Representations and Warranties. Landlord represents and warranties to Tenant as follows:

a. Landlord is the owner of the Track Property and has the right to make this Lease.

b. Tenant, upon execution of this Lease and Tenant's: i) payment of the Annual Base Rent and all Additional Rent, ii) performance of all of the terms and conditions of this Lease. shall at all times during the term hereof peacefully and quietly hold and enjoy the Track Property.

13. Tenant's Representations and Warranties. Tenant represents and warrants to Landlord that he is duly authorized, and not legally or contractually restrained from, executing this Lease in his individual.

14. Lease Subordinate to Encumbrances. This Lease is subject and subordinate to any mortgages, trust deeds, easements or mineral right reservations or other encumbrances or rights now existing, or that may be hereafter placed against the Track Property.

15. Signs, Awnings and Marquees Installed By Tenant. Tenant shall not construct, or place signs, awnings, marquees, or other structures anywhere on the Track Property without the prior written consent of Landlord. Any signs, awnings, marquees desired by Tenant shall be professionally prepared and installed at Tenant's sole expense. Landlord shall have the right to approve all sign matters, which approval shall not be unreasonably withheld. The specific design and placement of all approved signage shall be mutually agreed upon by Landlord and Tenant and shall be memorialized in a written addendum or attachment to this Lease, which, once executed by the parties, shall be incorporated herein by this reference.

16. Tenant's Personal Property. The personal property, equipment, furnishings, tools, and removable improvements owned by Tenant and located on the Track Property as of the Effective Date, or installed thereafter by Tenant at its sole expense (collectively, "***Tenant's Personal Property***"), are and shall remain the sole and exclusive property of Tenant. Tenant shall have the absolute right, upon expiration or earlier termination of this Lease, to remove all Tenant's Personal Property from the Track Property, provided that Tenant shall repair any material damage to the Track Property caused by such removal, reasonable wear and tear excepted. The specific items constituting Tenant's Personal Property as of the Effective Date shall be identified and listed on ***Exhibit "A"*** attached hereto and incorporated herein by this reference.

17. Keys & Locks. Tenant shall not change locks or install other locks on fences and doors without the written consent of the Landlord who agrees not to unreasonably withhold consent. The changing of said locks, if approved, shall be done at the sole expense of Tenant.

18. Landlord's Right to Inspect or Repair the Track Property. Tenant shall permit inspection of the Track Property during reasonable business hours by Landlord or Landlord's agents or representatives for the purpose of ascertaining the condition of the Track Property and to permit Landlord to make such repairs as may be required to be made by Landlord under the terms of this Lease or to preserve and maintain the Track Property in a safe condition.

19. Assignment and Sublease. Tenant shall not assign or sublet this Lease or any part of the Track Property without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion. Landlord shall not be obligated to approve an assignment of this Lease. Any consent of Landlord shall be conditioned upon the acknowledgement and agreement of the proposed assignee or sublessee to be subject to the terms and conditions of this Lease. Furthermore, the consent of Landlord to any assignment or sublease shall not release Tenant from any of its obligations under this Lease, unless otherwise agreed to in writing.

20. Tenant Breach or Default. Tenant shall be in breach of this Lease and shall be considered in default under this Lease if:

a. Tenant fails to pay any Annual Base Rent or Additional Rent when due, and such failure continues for thirty (30) days after the applicable due date, regardless of whether Landlord has provided notice of such delinquency;

b. Tenant fails to perform or comply with any other covenant or condition of this Lease and such failure continues for a period of ten (10) days after receipt of written notice thereof from Landlord, or in which ten (10) days Tenant has not commenced action to cure and fails to diligently and expeditiously cure said default;

c. Tenant files a voluntary petition in bankruptcy or if Tenant shall file any petition or institute any proceedings under any insolvency or Bankruptcy Act or any amendment thereto hereafter made, seeking to effect its reorganization or a composition with its creditors or if, in any proceedings based on the insolvency of Tenant;

d. Tenant abandons or vacates the Track Property prior to the expiration of the Initial Term or Renewal Term of this Lease; or

e. If the Track Property shall be used for any purpose other than the Authorized Uses set forth herein, or for use in violation of any law or regulation.

21. Remedies Upon Tenant Default. In the event of any default hereunder (or threatened default in the case of Subsection (b), of this Section), the rights of Landlord shall be as follows:

a. Landlord may elect, but shall not be obligated, to make any payment required of Tenant herein or comply with any agreement, term or condition required hereby to be performed by Tenant, and Landlord shall have the right, but not the obligation, to enter the Track Property for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied. However, any expenditure hereunder by Landlord shall not be deemed to waive or release the default of Tenant or the right of Landlord to take any action as may be otherwise permissible hereunder in the case of any default.

b. Landlord shall have the right of injunction to restrain Tenant and the right to invoke any remedy allowed by law or in equity, as if the specific remedies of indemnity or reimbursement were not provided herein.

c. Landlord shall have the right to cancel and terminate this Lease, as well as all of the right, title and interest of Tenant hereunder, by giving to Tenant not less than ten (10) days' notice of the cancellation and termination. On the expiration of the time fixed in the notice, this Lease and the right, title and interest of Tenant hereunder shall terminate in the same manner and with the same force and effect, except as to Tenant's liability for sums accrued prior to the date of termination, as if the date fixed in the notice of cancellation and termination were the end of the term herein originally determined.

d. Landlord may re-enter the Track Property immediately without notice and take possession/control of the Track Property.

e. Landlord may recover from Tenant all damages proximately resulting from any default or breach, including, but not limited to, the cost of recovering the Track Property, or altering or remodeling the same for re-letting, the cost of remedying any violation of this Lease, or the cost of exercising any of the remedies provided herein or by law, and may further recover the unpaid rent reserved under this Lease, the total amount of which shall be due and payable.

f. Landlord may exercise any and all other rights and remedies allowed by law and the rights and remedies given to Landlord in this Lease are distinct, separate, and cumulative, and no one of them, whether or not exercised by Landlord, shall be deemed to be in exclusion of any of the others herein, by law, or by equity, provided.

22. Waiver of Covenants. The pursuit by Landlord of any of the remedies provided for in any Section of this Lease shall not constitute a waiver of any of the remedies available to Landlord in any other Section or under the law or equity. A waiver by Landlord of any breach of this Lease shall not constitute a waiver

of any other breach. Forbearance or omission by Landlord in enforcing any of its remedies upon Tenant's breach shall not constitute a waiver of any of its remedies.

23. Indemnification and Non-Liability of Landlord. Tenant shall, at all times, keep the Track Property, including, but not limited to, the BMX track, staging areas, spectator zones, buildings, equipment, and all other appurtenances, in good condition, order, and repair. Likewise, Tenant shall indemnify, defend, and hold Landlord harmless from any and all claims, liabilities, damages, losses, or expenses (including insurance deductibles, court costs, and attorney's fees) arising from personal injury, death, or property damage occurring on the Track Property or in connection with Tenant's operation of the Track Improvements, including but not limited to BMX races, training sessions, practices, camps, clinics, and public events. This indemnification obligation includes, without limitation, claims arising from: accidents, collisions, or falls involving riders, spectators, volunteers, staff, or invitees; the use or condition of the earthen BMX racetrack and the earthen BMX pump track, including said tracks' features such as jumps, berms, or the start hill; improper or inadequate maintenance by Tenant of track surfaces or safety equipment; any activity conducted by Tenant, its employees, agents, members, riders, contractors, volunteers, licensees, or invitees; the failure or interruption of utilities or services provided by third parties, including electricity, water, sewer, lighting, or other public services, whether due to outages, maintenance, curtailment, or repair; theft, vandalism, fire, acts of God, civil unrest, war, riot, strike, or any other cause, whether identified or unidentified, except in cases of direct willful misconduct by Landlord or its agents. Tenant shall be solely responsible for implementing and funding any and all safety and security measures that it deems necessary to protect riders, staff, spectators, and other users of the Track Improvements, including, but not limited to, maintaining proper fencing, crowd control barriers, safety signage, medical response plans, and trained EMS personnel.

24. Landlord Default.

a. Any claim, demand, right or cause of action that arises out of this Lease, or the negotiations that preceded this Lease, shall be barred unless Tenant commences an action thereon, or interposes a defense by reason thereof within two (2) months after the date upon which Tenant became aware, or should reasonably have become aware, of the inaction, omission, event, or action that gave rise to such claim, demand, right, or defense.

b. Tenant acknowledges and understands, after having consulted with its legal counsel that the purpose of this Section 24 is to shorten the period within which Tenant would otherwise have to raise such claims, demands, rights, or defenses under applicable laws.

25. Governing Law and Venue. Any action or judicial proceeding involving this Lease shall be governed under Utah law, both as pertains to substantive and procedural issues. Venue shall be properly placed in the Fifth District Court in and for Washington County Utah.

26. Attorney's Fees. Should any Party default in any of the covenants or agreements herein contained, that defaulting Party shall pay all costs and expenses, including a reasonable attorney's fee, which may arise or accrue from enforcing this Lease or in pursuing any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise. This obligation to pay costs and expenses includes, without limitation, all costs and expenses, including a reasonable attorney's fee, incurred on appeal and in bankruptcy proceedings.

27. Time of the Essence. Time is of the essence of each and every provision, covenant, and condition herein contained and on the part of Tenant or Landlord to be done and performed.

28. Force Majeure. Any failure on the part of either Party to perform any obligation hereunder, other than Tenant's obligation to pay rent or additional rent, and any delay in doing any act required hereby shall be excused if such failure, or delay is caused by any strike, lockout, governmental restriction or any similar cause beyond the control of the party so failing to perform, to the extent and for the period that such continues.

29. Lease Binding on Successors and Assigns. The covenants and agreements contained in this Lease shall be binding upon the parties hereto and on their respective successors, heirs, executors, administrators, legal representatives, and assigns. If Landlord sells or transfers its leasehold interest in the Track Property, then Landlord, on consummation of the sale or transfer, shall be released from any liability thereafter accruing under this Lease.

30. Construction of Lease. Words of any gender used in this Lease shall be held to include either gender, and words in the singular number shall be held to include the plural when the context requires.

31. Headings. The Section headings included herein are for reference purposes only and shall not in any way modify or limit the statements contained in any Section or provision of this Agreement.

32. Manner of Giving Notices. All notices, demands, or other writings in this Lease provided to be given or made or sent, or which may be given or made or sent, by either party hereto to the other, shall be sent by registered or certified mail, postage prepaid and return receipt requested, to the party to be notified at the following address set forth for that party, by email or, after the execution of this Lease, at such other address as may be designated by either party in writing:

If to Landlord, at the following address:
Virgin Town
114 S Mill St.
Virgin, UT 84779
clerk@virgin.utah.gov

If to Tenant, at the following address:
Michael Linares
94 West 1170 South
Hurricane, UT 84737
Email: _____

Every notice by mail shall be deemed to have been given on the date it shall be deposited in the United States mail in the manner prescribed herein, or on the date it shall be placed for delivery with a reputable and reliable overnight courier. Every notice by email shall be deemed to have been given on the date sent provided that the email is sent to the correct email and no bounce back or other notification of failed delivery is provided. Nothing herein shall preclude personal service of any notice in the manner prescribed for personal service of a summons or other legal process, which shall be deemed given at the time of service.

33. Surrender of Property. Tenant shall, on the last day of the Initial Term, or any Renewal Term thereof - earlier termination or forfeiture of the Lease, peaceably and quietly surrender and deliver the Track Property (free of subtenancies) to Landlord, all in good repair, normal wear and tear excepted.

34. Severability. In case any one or more of the provisions of this Lease or any application thereof shall be invalid, illegal or unenforceable in any respect with any law of the State of Utah, the validity, legality and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

35. Holdover. Should the Landlord permit Tenant to holdover the Track Property or any part thereof after the expiration of the term of this Lease, then and unless otherwise agreed in writing, such holding over shall constitute a month to month tenancy and shall in no event be construed as a renewal of this Lease, unless proper and timely notice has been given as required by this Lease. In the event of a holdover, all provisions of this Lease not inconsistent with a tenancy from month-to-month shall remain in full force and

effect. The Base Annual Rent shall be six thousand dollars (\$6,000.00) prorated and paid on a monthly basis.

36. Additional Assurances & Acts. The Parties agree to execute such additional documentation as may be necessary or desirable to carry out the intent of this Lease.

37. Electronic Signatures & Counterparts. Electronic signatures or original signatures sent and received by facsimile or email transmission shall be deemed the same as the original. Likewise this Lease may be executed in counterparts that, when combined shall be considered one document.

38. Entire Agreement. This Lease constitutes the entire agreement and understanding between the Parties and supersedes all prior discussions, understandings and agreements, oral or written, between the Parties with respect to this Lease. There are no representations or warranties, express or implied, between the Landlord and Tenant with respect to the subject matter of this Lease, except those specified in this Lease.

39. Amendment. This Lease may not be altered or amended except by a subsequent written agreement executed by the Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Lease on the day and year first above written.

LANDLORD:

VIRGIN TOWN
a Utah municipal corporation

Attest:

Jeane Krausse, Mayor

Krystal Percival, Town Recorder

TENANT:

MICHAEL LINARES
an individual

Michael Linares, individually

EXHIBIT “A”
TO BMX TRACK LEASE AGREEMENT
TENANT’S PERSONAL PROPERTY

(List of Tenant’s Personal Property to Follow)