

## BIKE SHARE, RELEASE OF LIABILITY & ASSUMPTION OF RISKS AGREEMENT

BETWEEN:

**JAWL PROPERTIES LTD.**  
Suite 100 - 3350 Douglas Street Victoria, BC V8Z 3L1

("Jawl Properties")

AND:

\_\_\_\_\_  
*Rider Name*

(the "Rider")

**RIDERS MUST READ ALL TERMS AND CONDITIONS OF THIS AGREEMENT BEFORE AGREEING TO ENTER INTO THIS AGREEMENT. BY ENTERING INTO THIS AGREEMENT, RIDER IS PERMITTED TO USE BIKES PROVIDED BY JAWL PROPERTIES' BIKE SHARE PROGRAM.**

**THE RIDER SHOULD REVIEW THIS AGREEMENT CAREFULLY AND SEEK LEGAL ADVICE ON ITS TERMS AND CONDITIONS BEFORE SIGNING.**

**IN CONSIDERATION OF** the agreements, representations, warranties and payments set out in this Agreement, the receipt and sufficiency of which is hereby acknowledged, Jawl Properties and the Rider (each, a "**Party**" and together, the "**Parties**") agree as follows:

### 1. PURPOSE OF AGREEMENT

- 1.1 This document constitutes the entire Agreement ("**Agreement**") between the Rider, the individual agreeing to be bound by the terms of this document, and for the Rider's use and rental of a bike (the "**Bike**") in the Jawl Properties' Bike Share Program (the "**Program**").

### 2. PROGRAM TERMS

- 2.1 **Rental Rates:** The Rider can check out a Bike from a docking station in the Program and use the Bike at the following rates:
  - (1.a) the first 3 hours at no charge; and
  - (1.b) thereafter at \$5.00 per hour; until the Bike is returned to a docking station.
- 2.2 **Rental Rate Changes:** Jawl Properties reserves the right to change the rental rates for the Bikes at any time.
- 2.3 **Proper Location(s) for Return of Bikes:** Riders must return Bikes to the same Jawl Properties building docking station locations from which they started or additional fees will be assessed. Bikes may not be returned to other Jawl Properties building docking stations. Jawl Properties may charge a \$50.00 or greater fee for Bikes not returned to the correct Jawl Properties docking station.
- 2.4 **Account Blocking:** Jawl Properties may block the Rider's access to bikes at its sole discretion. This may be related to misuse, safety, security issues or any other reason in Jawl Properties' sole discretion.
- 2.5 **Payment:** The Rider must provide Jawl Properties with a valid credit card number and expiration date before being registered in the Program. The Rider represents and warrants to Jawl Properties that the Rider is authorized to use the credit card information provided. The Rider authorizes Jawl Properties to charge the Rider's credit card for all fees incurred by the Rider under this Agreement, and all fees are subject to applicable sales taxes and any other government charges, which may be charged and collected by Jawl Properties.

### 3. RULES FOR BIKE USE AND RENTAL

- 3.1 **Age Requirement:** The Rider is and must be 18 years of age or older and the Rider represents and warrants that he/she meets this requirement.
- 3.2 **Helmets are Mandatory:** Failing to wear a helmet could result in serious bodily injury or death in the event of an accident or collision. Jawl Properties requires that the Rider use a properly fitted helmet at all times when operating the Bike. It is the Rider's sole responsibility to supply and utilize a helmet – Jawl Properties does not supply a helmet with the Bike. Rider agrees that in consideration of the use and rental of the Bike, Jawl Properties and its agents, directors, officers, shareholders, successors, assigns,

The Rider's Initials: \_\_\_\_

subsidiaries, parent organizations and affiliates, shall not be liable or responsible for any damages or injuries caused by or relating to Rider failing to wear helmet.

- 3.3 **Bike Inspection:** The Rider agrees to carefully inspect the Bike he/she wishes to ride prior to riding the Bike, and shall, while within 15 feet of the place of rental, test the Bike's operating components. If the Rider determines the Bike is not operating properly, the Rider will immediately stop riding the Bike, return the Bike and notify Jawl Properties.
- 3.4 **Competent to Operate a Bike:** The Rider represents and warrants that he/she is experienced and familiar with the safe and competent operation of a bicycle. The Rider is solely responsible for any injury or damages resulting from improper or unsafe operation of the Bike.
- 3.5 **Weather or Other Unsafe Conditions:** The Rider agrees that he/she will not ride, operate or use a bike in any manner during adverse weather conditions or in any other conditions that may reasonably affect the safe operation of a bicycle.
- 3.6 **Use of Drugs or Alcohol Prohibited:** Rider shall not ride or attempt to operate a Bike if he/she is under the influence of drugs or alcohol. Rider assumes all risks and liabilities resulting from any and all use or attempted use of a Bike while under the influence of drugs or alcohol.
- 3.7 **Compliance with Laws:** The Rider must comply with all applicable rules, regulations and laws that apply to the operation of a bicycle while using a Bike.
- 3.8 **Restrictions on Use of the Bike:** The Rider agrees not to:
- (8.a) use the Bike for racing, tricks riding, jumping, stunt riding and/or off-road riding;
  - (8.b) use the Bike for any commercial or business purposes;
  - (8.c) ride the Bike on unpaved roads, through water, or any other uses/places prohibited by law;
  - (8.d) tow, pull, carry or push any person or object with the Bike which could create an unsafe condition;
  - (8.e) allow any other person to ride upon or use the Bike in any capacity whatsoever;
  - (8.f) use any cell phone or electronic device, including, but not limited to, for the purposes of phone calls, text messages, music or any other use that distracts the Rider from the safe operation of the Bike;
  - (8.g) allow any other person to use the Bike at the same time as the Rider or allow more than one person to be carried on the Bike;
  - (8.h) overfill the Bike basket or place objects weighing in total more 9 kilograms (20 pounds) in the Bike basket; or
  - (8.i) violate any applicable law.
- 3.9 **No Modifications of the Bike:** The Bike is and shall remain the exclusive property of Jawl Properties at all times. Rider shall not remove or modify any accessories, parts or components of the Bike.
- 3.10 **Notify Police of any Accident:** The Rider must contact Jawl Properties and local police immediately in the event of theft of the Bike or an accident that occurred during the Rider's use of Bike resulting in bodily injury or property damage.
- 3.11 **Responsibility for Costs:** The Rider shall be liable and responsible for any costs, claims, tickets, judgments, demands, damages, injuries, expenses, penalties, expenditures of any nature and causes of action of any kind relating to a stolen, lost or damaged Bike. If the Rider's Bike is stolen, the Rider is responsible for its replacement cost.
- 3.12 **Condition of the Bike:** The Rider agrees to return the Bike to Jawl Properties in the same condition as when received. The Rider is liable for any and all damages resulting from improper use of the Bike and the cost to repair such damages. If the Bike is permanently damaged, the Rider shall be responsible for the replacement cost of the Bike.
- 3.13 **Requirement to Secure Bike at All Times:** Rider agrees to maintain the Bike in a secure manner at all times using the built-in lock on the Bike. Jawl Properties is not responsible for any lost, stolen, destroyed or damaged Bikes regardless of whether locks are utilized and/or properly functioning. The Rider agrees that he/she shall pay for any damages to the Bike caused by Rider or anyone else during Rider's rental or use period of the Bike.
- 3.14 **No Insurance Provided:** Rider acknowledges and agrees that Jawl Properties does not provide insurance of any kind related to the Bike including but not limited to: property damage, liability, personal injury, injury to others, damages, penalties, fines, losses, and/or expenses of any kind whatsoever.
- 3.15 **Payment for damaged, lost or stolen Bike:** The Rider agrees that if the Bike is not returned to a designated Jawl Properties docking station within the allocated time period, or the Bike is otherwise damaged beyond repair, lost or stolen, Jawl Properties will be entitled

The Rider's Initials: \_\_\_\_

to charge the Rider a fee which will be charged directly to the credit card that Rider used to rent the Bike and/or in a subsequent invoice to Rider, payable upon receipt.

- 3.16 **Rider responsible for Tickets, Fees and Fines:** The Rider agrees that he/she is solely responsible and will not hold Jawl Properties and/or any of Jawl Properties' agents, directors, officers, shareholders, employees, successors, assigns, subsidiaries, parent organizations, and/or affiliates liable for any violations or fines, incurred by the Rider while using, riding and/or operating the Bike.

#### 4. **WAIVER AND RELEASE**

- 4.1 In this section 4 of the Agreement, the "**Releasees**" means Jawl Properties and its directors, officers, employees, agents, independent contractors, subcontractors, suppliers, sponsors, successors, assigns and representatives.

- 4.2 In consideration of the Releasees agreeing to the Rider's participation in the Program and permitting the Rider's use of the Bikes and related facilities, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Rider hereby agree as follows:

(2.a) TO WAIVE ANY AND ALL CLAIMS that I have or may in the future have against the Releasees **AND TO RELEASE** the Releasees from any and all liability for any loss, damage, expense or injury, including death, that I may suffer or that my next of kin may suffer, as a result of my participation in the Program, DUE TO ANY CAUSE WHATSOEVER, INCLUDING NEGLIGENCE, BREACH OF CONTRACT, OR BREACH OF ANY STATUTORY OR OTHER DUTY OF CARE, INCLUDING ANY DUTY OF CARE OWED UNDER THE **OCCUPIERS LIABILITY ACT**, R.S.B.C. 1996. C. 337 ON THE PART OF THE RELEASEES, AND FURTHER INCLUDING THE FAILURE ON THE PART OF THE RELEASEES TO TAKE REASONABLE STEPS TO SAFEGUARD OR PROTECT ME FROM THE RISKS, DANGERS AND HAZARDS OF PARTICIPATING IN THE PROGRAM;

(2.b) TO HOLD HARMLESS AND INDEMNIFY THE RELEASEES from any and all liability for any property damage, loss or personal injury to any third party resulting from my participation in the Program;

(2.c) This Release Agreement shall be effective and binding upon the Rider's heirs, next of kin, executors, administrators, assigns and representatives, in the event of a Rider's death or incapacity;

(2.d) This Agreement and any rights, duties and obligations as between the parties to this Release Agreement shall be governed by and interpreted solely in accordance with the laws of the Province of British Columbia; and

(2.e) Any litigation involving the Parties to this Agreement shall be brought within the Province of British Columbia and shall be within the exclusive jurisdiction of the Courts of the Province of British Columbia.

#### 5. **ASSUMPTION OF RISKS AND ACCEPTANCE OF RESPONSIBILITY**

- 5.1 The Rider acknowledges and accepts that the Rider rides and uses the Bikes at his/her own Risk. The Rider promises and agrees to take due care during such rental, use, participation and/or operation of the Bike and understands that bicycling can be a hazardous activity. The Rider acknowledges, understands and assumes all risk relating to the rental, maintenance, design, use and/or operation of the Bike and understands that bicycling involves risk to the Rider and others including bodily injury, partial or total disability, paralysis and death, and damages which may arise therefrom and that Rider has full knowledge of said risks and dangers. Rider understands that a helmet is required when using the Bike, but does not eliminate the risk of injury in the event of an accident.

- 5.2 The Rider acknowledges that there may be risks and dangers not known to the Rider or not reasonably foreseeable at this time related to bicycling, maintenance, design, rental, use and/or operation of the Bike, and the Rider assumes responsibility for any and all such risks and dangers. Rider acknowledges and understands that risks and dangers related to the rental, maintenance, design, use and/or operation of the Bike may be caused by the negligence of the Rider or others including Jawl Properties and its directors, officers, employees, agents, independent contractors, subcontractors, suppliers, sponsors, successors, assigns and representatives. **THE RIDER ASSUMES RESPONSIBILITY FOR ALL SUCH RISKS AND DANGERS.**

- 5.3 The Rider assumes and accepts any risks and all injuries to the Rider, the Rider's property, and any others injured or damaged as a result of the rental, maintenance, design, use and/or operation of the Bike. Rider acknowledges, understands and agrees that all of the risk and dangers related to the rental, maintenance, design use and/or operation of the

The Rider's Initials: \_\_\_\_

Bike, including those caused by the negligence of others, are included within the waiver, release and relinquishment of liability contained in this Agreement.

## 6. INDEMNITY

- 6.1 **Indemnification:** The Rider shall indemnify, defend and hold harmless Jawl Properties and/or any of its or their agents, directors, officers, shareholders, employees, successors, assigns, subsidiaries, parent organizations, and/or affiliates against any and all claims, demands, causes of action, losses, liabilities, damages, injuries, costs and expenses, penalties, legal fees, judgments, suits, including claims brought by a third party, or disbursements of any kind of nature related to or arising out of this Agreement, including, but not limited to the Rider's breach of any representations, warranties or covenants set forth in this Agreement, and the rental, maintenance, design, use or operation of the Bike, the locks and/or the docking stations, even where caused in whole or in part by Jawl Properties' negligence, and/or the negligence of others, whether presently known or unknown. At Jawl Properties' option, the Rider will assume control of the defense and settlement of any such claim subject to indemnification by the Rider (provided that, in such event, Jawl Properties may at any time elect to take over control of the defense and settlement of any such claim). In no event may the Rider settle any claim without Jawl Properties' prior written consent.

## 7. PRIVACY

- 7.1 **Third Party Payment Processor:** Jawl Properties uses a third party payment processing company called NextBike. In collecting payment, NextBike processes your credit card transactions and obtains personal information from you.
- 7.2 **GPS Tracking:** Each Bike in the Program is equipped with GPS equipment that monitors the exact location of the Bike at all times. The Rider's use of the Bike such as time, locations visited and other information ("**Bike use data**") is not private, but is available to Jawl Properties and NextBike, the Program supplier.

**NextBike:** NextBike provides some or all of the services from systems located in Germany. As such, your credit card data ("**card data**"), Bike use data and all personal information from your registration in the Program will be transferred, processed and stored outside of Canada, and may be subject to disclosure as required by applicable law. Your information is used only to make payments requests and to administer the Program. If you object to your personal information, Bike use data and/or card data being processed and stored in this manner, you cannot use the Program. By registering for the Program and providing valid payment, you expressly consent to the use and disclosure of your personal information, Bike use and card data in the manner described.

## 8. GENERAL

- 8.1 **No Warranty:** There is no warranty of merchantability or fitness for a particular purpose, and the Rider agrees to accept the Bike and related equipment (if any) "As Is".
- 8.2 **Service Interruptions:** Jawl Properties shall not be liable for, or owe a refund to, the Rider for any interruptions in service howsoever caused and makes no representation or warranty that the Program will be available at all times. Jawl Properties reserves the right to discontinue the Program at any time.
- 8.3 **No Waiver:** Jawl Properties' failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right.
- 8.4 **Termination of Agreement:** Jawl Properties may terminate this Agreement at any time, without cause, or notice to the Rider.
- 8.5 **Severability:** Each provision of this Agreement, including any exclusions or limitations of liability, shall be construed separately, applying and surviving even if for any provision in this Agreement is held to be inapplicable or unenforceable under any circumstances.
- 8.6 **Entire Agreement:** This Agreement constitutes the entire Agreement between Jawl Properties and the Rider, and prevails over any prior or contemporaneous, conflicting or additional, communications, unless Jawl Properties revises or modifies this Agreement. Jawl Properties shall have the right to revise, change and modify the terms and conditions contained in this Agreement at any time without prior written notification by providing the revised Agreement to the Rider. Riders shall be solely responsible for reviewing and becoming familiar with any modification to this Agreement. Use and/or operation of the Bike by Rider following any modifications to this Agreement constitutes Rider's acceptance of the terms and conditions as modified.
- 8.7 **Acceptance of Agreement by the Rider:** The Rider acknowledges that he/she has carefully read the entire Agreement, including the terms and conditions, and understands

The Rider's Initials: \_\_\_\_

this Agreement, including but not limited to the waiver of liability, assumption of risk and indemnification provisions, fully, and agrees to be bound by this Agreement.

**THE RIDER HAS READ, UNDERSTANDS AND AGREES TO THE ABOVE AGREEMENT AND TERMS AND CONDITIONS. BY ACCEPTING THIS AGREEMENT AND CHECKING OUT A BIKE, THE RIDER HAS AGREED TO ENTER INTO THIS AGREEMENT.**

<b>The Rider</b>	Signature:	Last Name:	<i>Please Print</i>	First Name:	<i>Please Print</i>
	Street:	City:	Province:	Postal Code:	
	Age:	Sex:	<i>M/F</i>	Email Address:	Phone Number:
Witness Signature:			Witness Name:		

The Rider's Initials: \_\_\_\_