

SKI BUS PASS AGREEMENT

Solitude Mountain Resort

2021-2022

THIS PASS AGREEMENT (“Agreement”) is made this 1st day of November 2021, between the **UTAH TRANSIT AUTHORITY**, a public transit district organized under the laws of the State of Utah ("Authority" or "UTA") and **SOLITUDE MOUNTAIN SKI AREA LLC**, a Utah limited liability company ("Administrator").

WHEREAS, The Authority is a public transit district organized under the provisions of the Utah Public Transit District Act that provides public transportation service along the Wasatch Front, including in Big and Little Cottonwood Canyon, and is authorized by State law to enter contracts; and

WHEREAS, Administrator operates a ski resort in Big or Little Cottonwood Canyon, sells season passes to the public, and hires employees to assist in the operation of its ski resort; and

WHEREAS, Administrator desires to participate in UTA’s Pass program pursuant to the terms and conditions described below.

NOW THEREFORE, Administrator and UTA hereby covenant and agree to be bound by the terms and conditions set forth in this Agreement:

DEFINITIONS

- A. The term “**Authorized User**” means Administrator’s and its parent company’s (Alterra Mountain Company) employees, Ikon pass holders and season pass holders who have been issued a Pass in compliance with this Agreement.
- B. The term “**Local Service**” means regular fixed route bus, bus rapid transit, Microtransit, Streetcar light rail, and TRAX light rail routes operated by UTA that offer standard public transit service making frequent stops along designated streets, highways, and/or TRAX/Streetcar stations.
- C. The term “**Pass**” means a card issued by Administrator to an Authorized User under the terms of this Agreement for use on UTA’s transit system.
- D. The term “**Shuttle Service**” means travel between these ski resorts: Big Cottonwood shuttle means travel between Brighton and Solitude. Little Cottonwood shuttle means travel between Alta and Snowbird.
- E. The term “**Ski Bus Service**” means public transit service other than Shuttle Service in Big and Little Cottonwood Canyons on routes and schedules determined by the Authority but including stops at Brighton and Solitude resorts.

TERMS AND CONDITIONS

1. **TERM.** This Pass Agreement shall begin on the date stated above and end May 31, 2022.
2. **PASSES.** Administrator shall issue a Pass for use on UTA's transportation services in the form of a unique electronic micro-chip embedded in an electronic fare card media that complies with UTA's requirements to Authorized Users only. Passes are non- transferrable. Administrator agrees to provide UTA educational information to each Authorized User regarding UTA's Electronic Fare Collection ("EFC") Pass Program Guidelines and Rules, particularly the requirement that Authorized Users tap on prior to boarding and tap off upon alighting.
3. **PASS RECOGNIZED AS TRANSIT FARE.** For the term of this Agreement, a Pass issued to an Authorized User under this Agreement, when displayed together with valid photo identification upon request, shall be recognized as full fare when the Authorized User has tapped.
4. **PAYMENT FOR PASSES.** Administrator is responsible for paying the full amount owed to UTA pursuant to the pricing set forth below, regardless of whether Administrator receives payment for Passes from a third party. Administrator shall pay the amount invoiced by UTA within thirty (30) days' receipt of invoice, provided that Administrator may, and without any interruption to the services provided herein, withhold payment of amounts disputed in good faith pending resolution of the dispute. UTA shall charge Administrator a one percent (1%) per month late fee on balances due under this Agreement that remain unpaid forty-five (45) days from the payment due date. Payment can be made in the following forms: Check, ACH, and/or Wire Transfer. Checks should be made payable to UTA and mailed to the following address: Utah Transit Authority, Accounts receivable, 669 West 200 South, Salt Lake City, Utah 84101. ACH/WIRE instructions are available upon request. UTA's invoices must bear the PO# provided by Administrator, if any.
 - A. **Daily with Adjustments.** UTA shall issue Administrator an invoice for actual Pass usage each month within seven days after the month ends. Administrator agrees to pay \$8.00 for each day the Authorized User travels on both Ski Bus Service and Local Service that day. Administrator agrees to pay \$5 for each day the Authorized User travels on Local Service and does not travel on Ski Bus Service. The billable ski days on the invoice will be reduced by 4% to account for missing shuttle trips. Administrator agrees to pay a reduced rate of \$4.00 for an agreed to number of billable ski days. Administrator may elect to add FrontRunner service to an Authorized User's Pass by submitting a bulk import file of ski pass numbers. For Passes with FrontRunner service Administrator agrees to pay the public fare rate of those trips in addition to the daily Ski Bus Service or Local Service fare rates. No transfer credits will be applied to the FrontRunner fare.
 - B. **Daily with Weekly Cap.** UTA shall issue Administrator an invoice for actual Pass usage as described in 4A above, not to exceed \$28 per week per Authorized User, each month within seven days after the month ends. The weekly cap excludes

FrontRunner fares.

- C. Shuttle Service. Shuttle Service will be provided to Pass holders at no additional cost and are excluded from an Administrator's monthly billing when a rider taps on and off when travelling between resorts.

- 5. **CONFISCATION AND UNAUTHORIZED USE OF PASS.** UTA shall have the right to confiscate a Pass at any time (without notice to the Administrator) from any person who UTA reasonably believes is not an Authorized User or if UTA reasonably believes the Pass has been duplicated, altered, or used in an unauthorized way. UTA will immediately deactivate confiscated Passes and notify the Administrator. If the Pass is an Administrator-provided card, UTA will return it to Administrator.

- 6. **RECONCILIATION.** UTA maintains the right, upon reasonable notice, to inspect during regular business hours and to the extent necessary to verify compliance with this Agreement, all Passes always maintained by Administrator during the term of this Agreement and for a period of one year after the expiration or termination of this Agreement. Administrator shall cooperate with and permit UTA to examine the unissued Passes distributed to Administrator and the Passes sold and to inspect and reconcile all records and accounts pertaining to this agreement.

- 7. **REPORTING.**
 - A. Partner Website. The Authority agrees to provide the following information to Administrator through www.tap2rideuta.com, which may be accessed at any time: (1) Ridership- parameters include a date range with trip counts by Pass number or service type; (2) Active Passes- a count of total active passes; (3) Pass Summary- the current status of each Pass, the Pass number, and property field to the extent completed by Administrator; and (4) Action History- a summary of all changes made to Passes. Administrator may access this information at www.tap2rideuta.com by selecting "reports."

 - B. Ridership Data. Each monthly billing cycle, UTA agrees to provide Administrator with a report of its' Authorized Users' daily usage on Ski Bus Service during the preceding month.

 - C. Additional Ridership Data. Subject to Utah Code 17B-2a-815(3)(a), which limits the type of ridership data UTA may disclose to third party administrators, the Authority will provide additional Authorized User ridership data to Administrator upon request. Requests for additional ridership data must be emailed to passprograms@rideuta.com.

 - D. Administrator Data. Administrator agrees to identify the type of each Pass issued in the property fields on the UTA Third Party Partner Website or the bulk import spreadsheet (employee or season pass-holder). UTA encourages Administrator to provide additional information in the property fields of the UTA Partner Website or

bulk import spreadsheet so that the parties can obtain more comprehensive ridership data in connection with the Ski Bus Service.

- E. Ikon Pass Data. Administrator agrees to provide a list of Ikon pass numbers to the Authority no later than November 1, 2021. The Authority agrees to activate all Ikon passes to be valid as transit fare for the term of this Agreement.
- F. Monthly Reporting. The Authority will provide Administrator with a monthly report summarizing key information agreed upon by the resorts and UTA in advance. UTA can also provide Administrator with a breakdown of EFC Pass holder usage only if Administrator provides Pass holder information through bulk import.
- 8. **TERMINATION OF AGREEMENT.** This Agreement may be terminated with or without cause by either party by providing thirty (30) days advance written notice of termination. In the event the Agreement is terminated after UTA begins Service, the amount owed under this Agreement shall be prorated based on the number of days UTA provided the transportation services specified above.
- 9. **THIRD PARTY INTERESTS.** No person not a party to this Agreement shall have any rights or entitlements of any nature under it.
- 10. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement between the parties hereto for the term stated and cannot be modified except by written agreement signed by both parties. Neither party shall be bound by any oral agreement or special arrangements contrary to or in addition to the terms and condition as stated herein.
- 11. **COSTS AND ATTORNEY’S FEES.** If either party pursues legal action to enforce any covenant of this Agreement, the parties agree that all costs and expenses of the prevailing party incident to such legal action, including reasonable attorneys’ fees and court costs shall be paid by the non-prevailing party.
- 12. **NOTICES.** Except as otherwise indicated, notices to be given hereunder shall be sufficient if given in writing in person or by personal delivery, U.S. mail, or electronic mail. Notices shall be deemed effective and complete at the time of receipt, provided that the refusal to accept delivery shall be construed as receipt for purposes of this Agreement.

If to: Administrator: _____ Name: _____ Address: _____ Phone: _____ Email: a.broadaway@solitudemountain.com and to legal@alterramtnco.com	Utah Transit Authority: Kensey Kunkel 669 West 200 South Salt Lake City, Utah 84101 801-741-8806 kkunkel@rideuta.com
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Either party may change the address at which such party desires to receive written notice by

giving written notice of such change to the other party. Any such notice shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed, provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice.

13. **INTENT TO BE LEGALLY BOUND.** The undersigned parties have duly caused this Agreement to be executed and any individual signatories executing on behalf of a governmental entity, corporation or limited liability company are duly authorized by his or her respective governmental entity, corporation, or limited liability company employer to execute this Agreement.
14. **NON-DISCRIMINATION.** Administrator agrees that it shall not exclude any individual from participation in or deny any individual the benefits of this Agreement, based on race, color, national origin, creed, sex, or age in accordance with the requirements of 49 U.S.C. 5332.
15. **DEFAULT.** In the event that either party fails to perform any of the terms and conditions required to be performed pursuant to this Agreement, and upon fifteen (15) days' notice of such failure to perform, the non-defaulting party under this agreement may terminate this Agreement. In the event that Administrator fails to pay UTA, Administrator shall be liable for not only amounts due under this Agreement, but also collection costs including court costs and reasonable attorney's fees.
16. **SUCCESSORS AND ASSIGNS.** This agreement shall not be assigned without the written consent of the other party. This agreement with all its terms and provision shall be binding and inure to the benefit of any permitted successors and assigns of the parties hereto.
17. **AMENDMENTS.** This Agreement may not be modified or terminated orally, and no claimed modification, rescission or waiver shall be binding upon either party unless in writing signed by a duly authorized representative of each party.
18. **UTA RESPONSBILITY/ INDEMNIFICATION.** UTA is solely responsible for the performance of the transportation services described herein, including (a) ensuring that all drivers are duly certified and insured and (b) resolving all claims and damages that may arise out of vehicle collisions or other losses relating to such transportation services.

Notwithstanding the foregoing, each of the parties mutually agrees to indemnify, defend, and hold harmless the other party, its directors, officers, agents, and employees against all claims, actions, debts or loss to the extent arising from a breach of a covenant, or other breach or default by, the indemnifying party under this Agreement. Such indemnification shall, as to UTA, include personal injury and property damage claims arising out of its performance of transportation services. The parties recognize and acknowledge that UTA is a public or governmental agency or entity covered under the provisions of the Utah Governmental Immunity Act as set forth in Sections 63-30-1 to 63-30-38, Utah Code Annotated 1953, as amended, and the limits of liability therein described. UTA does not waive any legal defense or benefit available to it under applicable law. Both parties agree to cooperate in good faith in

resolving any disputes that may arise under this Agreement.

For the avoidance of doubt, UTA is solely responsible for the performance of the transportation services described herein, including (a) ensuring that all drivers are duly certified and insured and (b) resolving all claims and damages that may arise out of vehicle collisions or other losses relating to such transportation services.

19. **GOVERNING LAW.** This Agreement and all transactions contemplated hereunder and/or evidenced hereby shall be governed by and construed under and enforced in accordance with the laws of the State of Utah without giving effect to any choice of law or conflict of law rules or provisions.
20. **WAIVER.** The waiver by either party of any of the covenants as contained in this Agreement shall not be deemed a waiver of such party's rights to enforce the same or any other covenant herein, and the rights and remedies of the parties hereunder shall be in addition to, and not in lieu of, any right or remedy as provided by law.
21. **NO PRECEDENT.** Both Parties acknowledge that this agreement is applicable only until the contract Term date as stated in section 1, above, and that a new agreement including new terms and conditions will need to be negotiated for future ski resort service. This agreement does not set a precedent for those future agreements.

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In WITNESS WHEREOF, the undersigned parties have executed this Agreement the date and year above written.

SOLITUDE MOUNTAIN SKI AREA LLC

UTAH TRANSIT AUTHORITY

By:

By:

Signature Date

Signature Date

Print Name: _____

Print Name: _____

Print Title _____

Print Title: _____

Approved As To Form:

Mike Bell
70E33A415BA44F6...

UTA Legal Council

By:

Signature Date

Print Name: _____

Print Title: _____

EXHIBIT A
Pass Program Account Setup

Section 1: Partner Information

Administrator: _____
Address: _____
City, State, _____
Zip: _____

Section 2: Contact Information

Contact
Name: _____
Title: _____
Phone: _____
Email: _____

Section 3: Designated Transit Coordinator *(For additional Coordinator, please submit names and email addresses to efcoperations@rideuta.com)*

Contact
Name: _____
Title: _____
Phone: _____
Email: _____

Section 4: Billing Information

Accounts
Payable
Contact: _____
Title: _____
Phone: _____
Email: _____

Method (Check One)		Email or Mailing Address
Email <input type="checkbox"/>	Mail <input type="checkbox"/>	

Payment Type (Check One)		
ACH <input type="checkbox"/>	Wire <input type="checkbox"/>	Check <input type="checkbox"/>

*ACH/WIRE Instructions are available upon request

Section 5: Programs and Pricing

Daily with Adjustments

Description: Monthly payment required from employer to UTA, invoiced at the end of each month and based on daily usage, see section 5A for additional details.

Please indicate below the authorized user group or groups that will be participating in the program:

Season Pass Holders

Employees

Daily with Weekly Cap

Description: Monthly payment required from employer to UTA, invoiced at the end of each month and based on daily usage not to exceed a weekly cap of \$28 per week per authorized user, see section 5B for additional details. Requires 100% participation by season pass holders and/or 100% participation by employees.

Please indicate below the authorized user group or groups that will be participating in the program:

Season Pass Holders

Employees