

**PASS DISTRIBUTION AGREEMENT**  
Visit Ogden

This Ski Bus Service Agreement (“Agreement”) is effective on the 11<sup>th</sup> day of December, 2021 (“Effective Date”), by and between **UTAH TRANSIT AUTHORITY**, a public transit district, hereinafter referred to as “UTA”, and **VISIT OGDEN**, a Utah non-profit corporation.

**RECITALS:**

- A. UTA is a public transit district organized under the provisions of the Utah Public Transit District Act and provides public transit service within the State of Utah, including regularly scheduled service in Weber County and ski bus service; and
- B. Visit Ogden encourages tourists to travel to areas in and around Weber County and desires to make transit passes available to the guests of area hotels for transportation on UTA’s ski bus service.

NOW, THEREFORE, in consideration of the mutual covenants, condition and promises as hereinafter set forth, it is mutually agreed as follows:

**AGREEMENT:**

- 1) Term. This Agreement shall be effective from Effective Date through April 16, 2022.
- 2) Transit Passes. UTA agrees to provide day transit passes (“Passes”) to Visit Ogden for use on the ski bus service as described in Exhibit A and connecting bus routes (the “Service”). UTA agrees to accept Passes as valid fare on the Service for each Pass holder who taps-on and taps-off pursuant to UTA’s Electronic Fare Collection Enforcement Rules. Passes will be valid for twenty-four (24) hours after the first tap. Passes will not be valid on any other UTA service, including, but not limited to, non-connecting regular bus routes, express bus routes, paratransit, flex routes, Park City Connect, FrontRunner, TRAX, and any other service. Passes are not transferrable. Use of UTA’s transportation system is subject to the rules, regulations and ordinances promulgated by UTA at its sole discretion. UTA may implement additional rules or procedures related to the redemption and use of the Passes as reasonably necessary.
- 3) Distribution of Passes. Visit Ogden agrees to distribute Passes to Weber County hotels (“Hotels”) to sell to their guests. Visit Ogden shall prohibit Hotels from providing a Pass to any person who has not purchased a Pass. Visit Ogden shall require Hotels to maintain a log of all Passes received from Visit Ogden and all Passes sold to guests. The obligation under the preceding sentence shall include: (a) the Hotel maintaining the unique identification number of each Pass received by Hotel; and (b) Hotel being able to identify, by number, any Passes identified as lost or stolen for which replacement Passes have been issued. Visit Ogden shall prohibit Hotels from charging guests more than \$8.00 for each Pass.

- 4) Payment for Passes. On or before April 14, 2022, Visit Ogden shall return all unsold Passes to UTA. UTA will invoice Visit Ogden \$8.00 for each Pass provided to Visit Ogden that is not returned to UTA by April 16, 2022. UTA shall charge a one percent (1%) per month late fee on balances under this Agreement that remain unpaid forty-five (45) days from date of invoice. Visit Ogden is solely responsible for collecting payment from Hotels selling Passes to their guests.
- 5) Termination. 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 Service.
- 6) Modification of Agreement. This Agreement may be supplemented, amended, or modified only by the mutual agreement of the parties. No supplement, amendment, or modification of this Agreement shall be binding unless it is in writing and signed by the parties.
- 7) Default. In the event that either party fails to perform any of the terms and conditions of this Agreement, upon fifteen (15) days' notice of such failure to perform, the right of the defaulting party under this Agreement shall expire.
- 8) Attorney's Fees. The defaulting party agrees to pay the non-defaulting party's costs and reasonable attorney's fees in the event such are incurred to enforce any of the provisions of this Agreement.
- 9) Assignment. No party hereto shall have the right to assign its right and obligations hereunder without the express written consent of the other parties hereto.
- 10) Non-discrimination. The parties agree that they shall not exclude any individual from participation in or deny any individual the benefits of this Agreement, on the basis of race, color, national origin, disability, sex, or age in accordance with the requirements of 49 U.S.C. 5332.
- 11) Relationship of the Parties. The relationship between the parties is an arms-length contractual relationship, and is not fiduciary in nature. Nothing contained in this Agreement will be deemed to create an association, partnership, or joint venture between the parties, give rise to fiduciary duties, or cause any of the parties to be liable or responsible in any way for the actions, liabilities, debts or obligations of the other party. The parties shall not have any right, power, or authority to make any representation or to assume or create any obligation, whether express or implied, on behalf of the other party(ies), or to bind the other party(ies) in any manner.
- 12) Severability. If any part or provision of this Agreement is found to be prohibited or unenforceable in any jurisdiction, such part or provision of this Agreement shall, as to such jurisdiction only, be inoperative, null and void to the extent of such prohibition or

unenforceability without invalidating the remaining parts or provisions hereof, and any such prohibition in any other jurisdiction. Those parts or provisions of this Agreement, which are not prohibited or unenforceable, shall remain in full force and effect.

13) Authorization. The persons executing this Agreement on behalf of a party hereby represent and warrant that they are duly authorized and empowered to execute the same, that they have carefully read this Agreement, and that this Agreement represents a binding and enforceable obligation of such party.

14) Governing Law and Venue. 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. If either party brings against the other party any proceeding arising out of this Agreement, then that party may bring that proceeding only in the Third District Court in the State of Utah or the United States District Court for the District of Utah if there is federal subject matter jurisdiction.

15) Indemnification. UTA is a governmental entity under the Utah Governmental Immunity Act of the Utah Code, Section 63G-7-101 et seq. 1953 (as amended) (hereinafter, the “Act”). Nothing in this Agreement shall be construed to be a waiver by UTA of any protections, rights, or defenses applicable under the Act. It is not the intent of UTA to incur by contract any liability for the negligent operations, acts, or omissions of the other party or any third party and nothing in this Agreement shall be so interpreted or construed.

16) Notice or Demands. Any notice or demand to be given by one party to the other shall be given in writing per personal service, express mail, Federal Express, or any other similar form of courier or delivery service, or mailing in the United States Mail, postage prepaid, certified, return receipt requested and addressed to such party as follows:

If to:

Visit Ogden  
ATTN: Sara Toliver  
2438 Washington Blvd.  
Ogden, UT 84401

If to:

Utah Transit Authority  
ATTN: Kensey Kunkel  
669 West 200 South  
Salt Lake City, Utah 84101

Either party may change the address at which such party desires to receive notice on written notice of such change to any 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.

- 17) Project Manager. The UTA Project Manager for this Agreement shall be Mr. Trevan Blaisdell, or designee. All correspondence regarding the technical aspects of this Agreement should be addressed to Mr. Blaisdell, or designee.
- 18) Contract Administrator. The UTA Contract Administrator for this Agreement is Mr. Brian Motes, or designee. All questions and correspondence relating to the contractual aspects of this Agreement should be directed to Mr. Motes, or designee.
- 19) Counterparts; Electronically Transmitted Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same Agreement. Signatures transmitted by facsimile and/or e-mail shall have the same force and effect as original signatures.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

**UTAH TRANSIT AUTHORITY:**

**VISIT OGDEN:**

\_\_\_\_\_ Date \_\_\_\_\_  
 By: Jonathan Salazar  
 Title: Acting Regional General Manager

DocuSigned by:  
*Sara Toliver*  
 \_\_\_\_\_ Date 11/15/2021  
A2DA126E94174F3...  
 By: Sarah Toliver  
 Title: President/CEO

\_\_\_\_\_ Date \_\_\_\_\_  
 By: Cherryl Beveridge  
 Title: Acting Chief Operating Officer

Approved As To Form:

DocuSigned by:  
*Mike Bell*  
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 Michael Bell  
 Assistant Attorney General  
 Counsel for UTA

**EXHIBIT A**  
Weber County Ski Bus Service – Operating Plan

- a. Route. The Ski Bus Service will run along two separate routes from the Ogden Transit Center and the 21<sup>st</sup> St Hotels, terminating at Powder Mountain Ski Resort and Snowbasin Ski Resort, as shown and depicted on the maps attached hereto. Buses travelling from the ski resorts to the Ogden Transit Center will travel the same routes, in the reverse direction. The routes are depicted on Exhibit 1 hereto.
- b. Stops. The Ski Bus Service will stop at some or all of the following locations:
- 21<sup>st</sup> Street Hotels
  - Ogden Transit Center
  - Courtyard by Marriott, Lincoln Ave., North/South bound, Lincoln Ave.
  - Ben Lomond Hotel, Washington Blvd., North/South bound, Washington Blvd.
  - Hampton and Hilton Hotel, Washington Blvd., North/South bound, Washington Blvd.
  - 12<sup>th</sup> Street and Washington Blvd., East/West bound
  - Lakeside Village Properties
  - Moose Hollow
  - Powder Mountain Outpost
  - Powder Mountain Ski Resort, Lower Lift, Upper Parking Lot
  - Snowbasin Ski Resort

The stops are shown on Exhibit 1 hereto.

In the event that snow removal and/or vehicles parked alongside the roadway render any stop and/or Park & Ride lot either unsafe or unworkable, at UTA's sole discretion and determination, then such stops will be eliminated.

- c. Park and Ride Lots. The Ski Bus Service will be served by the following park and ride lots:
- Rainbow Gardens
  - Eden Park & Ride lot
- d. Buses. The Ski Bus Service will primarily use buses designed for ski services. UTA reserves the right to use buses that meet the demand per trip and time of day.

### Exhibit 1

## Ogden Ski Service

## Route 674 to Powder Mountain Resort

## Route 675 to Snowbasin Resort



