

**SKI BUS AGREEMENT
SUNDANCE MOUNTAIN
RESORT
2021-2022**

THIS AGREEMENT is made this 18TH day of December, 2021, between the **UTAH TRANSIT AUTHORITY**, a public transit district organized under the laws of the State of Utah ("Authority" or "UTA") and **SUNDANCE MOUNTAIN RESORT**, a Utah corporation, ("Administrator").

- A. 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 Provo Canyon, and is authorized by State law to enter into contracts; and
- B. Administrator operates a ski resort in Provo Canyon, sells season passes to the public, and hires employees to assist in the operation of its ski resort; and
- C. Administrator desires to secure public transportation services to their resort under the terms and conditions described below:

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, and for other good and -valuable consideration, the parties hereby agree as follows:

- 1. **TERM.** This Agreement shall begin on date stated above and end March 26, 2022.
- 2. **AUTHORIZED USERS.** Administrator's season pass holders and employees shall be Authorized Users under this Agreement.
- 3. **SKI BUS SERVICE.** The Authority shall provide public transit service in Provo Canyon on schedules and routes determined by the Authority at its sole discretion ("Ski Bus Service").
- 4. **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 ("Pass") 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 Policies, particularly the requirement that Authorized Users tap on prior to boarding and tap off immediately after boarding. Failure to tap on and off may result in a citation or fine pursuant to UTA's Ordinances.
- 5. **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 on Ski Bus Service when the Authorized User has tapped on and tapped off.

6. **PASSES FOR NON-CONNECTING SERVICE.** UTA transit services which do not connect with Ski Bus Service are considered to be “non-connecting service.” and are not authorized for use under this Agreement.

7. **MONTHLY PAYMENT.** UTA shall invoice Administrator each month based on the actual Ski Bus boarding counts of the Administrator's Authorized Users during the preceding month. Boarding and fare usage will be determined by the Authority based upon monthly ridership boarding counts using UTA's Electronic Fare Collection ("EFC") ridership counting system. Administrator agrees to pay \$4.00 per Authorized User boarding, which is a 20% discount off the current Ski Bus fare of \$5.00. Administrator agrees to pay UTA the amount invoiced within thirty (30) days of date of invoice. Administrator agrees to pay a one percent (1%) late fee on balances due that remain unpaid within thirty (30) days from the date indicated on the invoice.
 - A. **Form of Payment.** 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

8. **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.

9. **RECONCILIATION.** UTA maintains the right, upon reasonable notice, to inspect during regular business hours, all Passes maintained by Administrator at all times 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 on a monthly basis

10. **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 trip count of its Authorized Users’ ridership 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 (employee, season pass-holder) in the property fields on the UTA Partner Website or the bulk import spreadsheet. 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. Annual Ridership Report. The Authority will provide Administrator with an Annual written or electronic report summarizing the service provided under the terms of the Agreement. UTA can also provide Administrator with a breakdown of EFC Pass usage if Administrator provides Pass holder information through bulk import.
11. **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 Service.
12. **THIRD PARTY INTERESTS**. No person not a party to this Agreement shall have any rights or entitlements of any nature under it.

- 13. **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.
- 14. **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.
- 15. **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. All notices shall be addressed to the respective party at its address shown on Exhibit A or at such other address or addresses as each may hereafter designate in writing. 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:	<u>Sundance Mountain Resort</u>	Utah Transit Authority:
Name:	<u>Czar Johnson</u>	Kensey Kunkel
Address:	<u>8841 North Alpine Loop Rd</u>	669 West 200 South
	<u>Sundance, UT 84604</u>	Salt Lake City, Utah 84101
Phone:	_____	801-741-8806
Email:	<u>czarj@sundance-utah.com</u>	kkunkel@rideuta.com

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.

- 16. **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.
- 17. **NON-DISCRIMINATION.** Administrator agrees that it 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, creed, sex, or age in accordance with the requirements of 49 U.S.C. 5332.

18. **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, including court costs and reasonable attorney's fees after the Agreement has been terminated
19. **SUCCESSORS AND ASSIGNS.** This agreement shall not be assigned without the written consent of the other party. This agreement with all of its terms and provision shall be binding and inure to the benefit of any permitted successors and assigns of the parties hereto.
20. **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.
21. **INDEMNIFICATION.** The parties mutually agreed to indemnify, defend and hold harmless the other party, its directors, officers, agents and employees against any and 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. 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.
22. **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.
23. **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.

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

SUNDANCE SKI RESORT

UTAH TRANSIT AUTHORITY

By: _____ Date: _____

Name: _____

Title: _____

By: _____ Date: _____

Name:

Title

By: _____ Date: _____

Name:

Title:

Approved as to Form:

DocuSigned by:
Mike Bell 11/3/2021
 By: 70E33A415BA44F6 Date: _____
 Michael Bell
 Assistant Attorney General
 Counsel for UTA

