

PASS PURCHASE AND ADMINISTRATION AGREEMENT
Davis Technical College

This Pass Purchase and Administration Agreement (the "Agreement") is made this 1st day of August 2021, between the UTAH TRANSIT AUTHORITY, a public transit district organized under the laws of the State of Utah, ("UTA"), and the undersigned administrator ("Administrator").

Recitals:

- A. UTA is a public transit district organized under the provisions of the Utah Public Transit District Act and is in the business of providing public transit service within the state of Utah; and
- B. Administrator desires to purchase electronic fare card media for its Authorized Users to travel on UTA's public transit service and pay a discounted rate for each trip on UTA services.

Agreement:

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) **PURPOSE OF AGREEMENT.** The purpose of this Agreement is to allow Administrator to purchase a reduced fare for each trip on UTA's public transit service for its Authorized Users (as defined this Agreement) in accordance with the attached and incorporated Exhibit "A." Administrator is responsible for issuing Passes to its Authorized Users (as defined in this Agreement) in accordance with the term and conditions contained in this Agreement.
- 2) **TERM.** The Term of this Agreement shall begin August 1, 2021 and terminate July 31, 2022 (the "Term").
- 3) **AUTHORIZED USERS.** Administrator's eligible Authorized Users include students enrolled at Administrator's school and faculty and staff employed by Administrator ("Authorized Users"). Only Administrator's Authorized Users who have been issued a Pass in accordance with this Agreement are cardholders ("Cardholders") for purposes of this Agreement.
- 4) **FORM OF PASS.** The type of Pass selected by Administrator shall be reflected on Exhibit "A."
 - a) **Electronic Fare Card Media.** Each Pass is in the form of a unique electronic micro-chip embedded in an electronic fare card media, which may be printed by UTA or Administrator.

- b) **UTA-Printed Passes.** UTA-Printed Passes shall be provided to Administrator in the form of an activated UTA electronic fare card. Each electronic fare card is individually numbered with a unique chip number. Upon entry of either the electronic fare card's UID or card face number using UTA's web-based interface or other log maintained by Administrator and transfer to the Authorized User, the electronic fare card shall become a Pass for purposes of this Agreement. Administrator agrees to: 1) implement and comply with UTA's EFC Rules; and 2) train staff with Pass issuance or administration responsibilities on UTA's EFC Rules.
- c) **Administrator-Printed Passes.** Administrator-printed Passes shall be in the form of an electronically enabled employee or student identification card complying with UTA Card Data Format Specification Rules. Prior authorization from UTA must be received prior to electing to use Administrator-printed Passes for purposes of this Agreement. Upon activation of electronically enabled employee or student identification card using UTA's web-based interface, the electronically enabled employee or student identification card shall become a Pass, for purposes of this Agreement.

5) PASS RECOGNIZED AS TRANSIT FARE.

- a) So long as this Agreement has not been terminated in accordance with Paragraph 16, a Pass issued to a Cardholder under this Agreement, when used by such Cardholder in accordance with UTA's Cardholder Rules shall be recognized as full fare for the Authorized UTA Services listed on Exhibit "A."
- b) All Cardholders are required to Tap-On and Tap-Off. Failure to do so may result in a citation or fine pursuant to UTA's ordinances, loss of transfer credits, and additional Trip charges.
- c) Cardholders must provide valid photo identification upon request by UTA authorized personnel.
- d) A trip report will be generated every time a Pass issued to a Cardholder is presented to board a UTA vehicle in service (a "Trip").
 - i) UTA services are public transit services. UTA reserves the right to modify its public routes from time in accordance with its operational objectives and policies.
 - ii) Each Pass is valid from the date of issuance or activation by the Administrator through July 31, 2020. Each Pass may be re-activated by the Administrator in accordance with the UTA's EFC Rules pursuant to the terms of this Agreement.

- 6) **RESTRICTIONS ON SPONSOR CHARGES.** While Sponsor may implement a charge to its Authorized Users to offset the cost incurred by Sponsor for the Passes, in no event shall the Sponsor's aggregate charges to Authorized Users for the Passes exceed the total amount paid to UTA pursuant to this Agreement. To the extent, any profits are generated by the sale of Passes to Authorized Users, Sponsor shall provide an accounting to UTA and report and transfer any such proceeds to UTA, less any commercially reasonable and verifiable administrative expenses incurred by Sponsor associated with this Agreement.

Upon the request of UTA, Sponsor shall submit an accounting detailing, the number of Passes sold and the amount paid by Authorized Users for Passes.

7) MONTHLY INVOICE AND PAYMENT.

- a) Administrator shall pay to UTA monthly, the following items:
 - i) The effective Base One-Way Fare for each Trip on an Authorized UTA Service, which may vary by mode of UTA service as identified in Exhibit "B," less a twenty-five percent (25%) discount for each Trip during the preceding month.
- b) UTA shall invoice Administrator monthly. UTA's invoice shall indicate: (1) the number of Trips; (2) the total amount in Base One-Way Fares; and (3) the total amount of Fuel Surcharge Fees owed UTA. The payment of Fares so determined shall be calculated as follows:
 - i) The number of Trips for each quarter is determined by UTA's Electronic Fare Collection system pursuant to the UTA Electronic Fare Collection Frequently Asked Questions. The applicable Base One-Way Fare will be applied to each Trip (See Exhibit "B" for the current Base One-Way Fare schedule). A twenty-five (25%) discount will be applied by UTA to each Base One-Way Fare which will arrive at Administrator's total quarterly payment for fares.
 - ii) The Base One-Way Fare Schedule rates are the rates posted on UTA's website www.rideuta.com and are the same as the rates charged to UTA full fare paying customers. UTA reserves the right to adjust its Base One-Way Fare Schedule rates during the term of this Agreement, according to its operational needs as determined by UTA in its sole discretion. Notwithstanding the forgoing, any adjustment to the Base One-Way Fare Schedule, UTA shall continue to recognize a twenty-five (25%) discount on the Base One- Way Fare rate for all Trips under this Agreement. The Base One-Way Fare rate will be charged at the rate in effect at the time of the Trip.
 - iii) UTA shall provide to Administrator a monthly invoice showing the number of Trips and the Fare for each Trip which shall be used to calculate the amount owed UTA. Payments shall be made by Administrator to UTA within thirty (30) days of receipt of invoice.
 - iv) UTA shall charge and Administrator shall pay a one percent (1%) late fee on balances due under this Agreement which remain unpaid within thirty (30) days from the due date indicated on the invoice.
 - v) UTA shall charge and Administrator shall pay a five percent (5%) processing fee in the event Administrator elects to remit payment using a credit/debit card.

- 8) **PRE-AUTHORIZATION.** As part of this Agreement, Administrator completed and returned to UTA, a Pass Program Configuration Form, upon which Administrator identified various features of this Pass Purchase and Administration Agreement it desires to offer Authorized Users. Said Pass Program Configuration Form is attached hereto as Exhibit "A" and when completed, shall be incorporated herein by reference. Administrator hereby ratifies the elections contained in the Pass Program Configuration Form and agrees to be bound thereby. All capitalized terms used in the Pass Program Configuration Form shall have the same meaning when referenced in this Agreement.

- 9) **HANDLING OF FARE MEDIA.** Administrator shall not furnish, provide, assign, sell or resell, or otherwise transfer an electronic fare card or Pass to any person that is not an Authorized User. Issuance records for each issued Pass will be maintained in a log for such purpose. Administrator must maintain a log for all Passes issued. At all times during the term of this Agreement, Administrator must be able, upon request of UTA, to account for all Passes distributed to Administrator under this Agreement. The obligation under the preceding sentence shall include: (a) Administrator maintaining the unique identification number of each issued Pass and the corresponding person issued such Pass; (b) printing the Cardholder's name on the Pass in permanent ink prior to issuance to the Cardholder; (c) Administrator being able to produce for inspection, upon request during regular business hours, any electronic fare cards delivered to Administrator which have not been issued to a Cardholder; and (d) Administrator being able to identify, by number, any Passes identified as lost or stolen for which replacement Passes have been issued. UTA maintains the right, upon reasonable notice, to inspect during regular business hours, all such records 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. UTA shall only use the information discovered under this paragraph to audit the storage, use and issuance of Passes and electronic fare cards and not for any other purpose.
- 10) **RETURN OF PASSES.** Administrator shall be permitted to return, and UTA may demand the return of, valid Passes to UTA: (a) in the event this Agreement is terminated prior to the expiration of the term. Administrator shall be responsible to pay all invoices incurred prior to date of termination.
- 11) **CONFISCATION OF FARE MEDIA/UNAUTHORIZED USE OF FARE MEDIA.** UTA has the right to require any Administrator-Printed Pass to be deactivated - at any time when UTA reasonably believes the Pass is not being used by the Authorized User. UTA has the right to require the deactivation of any Administrator-Printed Pass that UTA reasonably believes has been duplicated or altered. Notwithstanding the forgoing, UTA may confiscate a Pass for law enforcement purposes. UTA has the right to confiscate a UTA-Printed Pass or electronic fare card at any time (without notice to the Administrator) from any person who UTA reasonably believes is not an Authorized User. UTA has the right to confiscate any UTA- Printed Pass or electronic fare card that UTA reasonably believes has been duplicated or altered. UTA reserves the right to pursue claims or demands against, or seek prosecution of any person who duplicates, alters or uses a Pass in any unauthorized way. UTA shall not pursue any claims or suits against the Administrator for any unauthorized use of a Pass, unless:
- a) the unauthorized use results from counterfeiting a Pass and the Administrator had actual or constructive knowledge of such action and Administrator failed to report such action to UTA within twenty-four (24) hours; (b) the Administrator falsely certified to UTA, the name of a person that is not a Cardholder; or (c) the unauthorized use resulted from Administrator's acts or omissions or misconduct. UTA shall have the right to confiscate a UTA-Printed Pass or electronic fare card if UTA believes that the information provided has been falsified by the Administrator or its authorized

representatives, or a Pass has been given by the Administrator or its authorized representatives to a person who is not an Authorized User.

- 12) **ISSUANCE OF PASSES.** Administrator shall be solely responsible for issuing a Pass to an Authorized User.
- 13) **NON-TRANSFERABLE.** Each Pass is not transferable to any other Cardholder, Authorized User, member of the Cardholder's household or any other person who is not an Authorized User.
- 14) **DELIVERY OF UTA-PRINTED PASSES.** The activated UTA-Printed electronic fare cards shall be printed by UTA and furnished to Administrator's representative at its primary address listed below on an annual basis, or as often as needed, for issuance to Authorized Users.
- 15) **SECURITY TERMS.** Administrator agrees to be responsible and accountable for all electronic fare cards delivered to Administrator by UTA and to treat unissued electronic fare cards with the same care and safeguards as cash. Administrator agrees to indemnify and save harmless the UTA from the loss of any electronic fare cards whether occasioned by loss, theft, forgery by Administrator's employees, or other causes, provided however, that if any unissued electronic fare cards shall be stolen while in the possession of Administrator, Administrator shall not be liable therefore, if Administrator reports electronic fare cards stolen and files with police an official police report declaring said electronic fare cards to have been the subject of theft other than from Administrator's employees, agents or representatives and the cause of the theft is not the result of Administrator's acts or omissions. Only one card may be active at any time for any Authorized User as confirmed by information provided by the UTA web- based database.
- 16) **RECONCILIATION.** Administrator shall cooperate with and permit UTA to examine the unissued Passes distributed to Administrator and reconcile all records and accounts pertaining to this Agreement on a monthly basis.
- 17) **TERMINATION OF AGREEMENT.** UTA may terminate this Agreement at any time by giving 30 days' written notice of termination. Administrator may terminate this Agreement at any time upon written notice and making an accounting and reconciliation as described in Paragraph 5, if requested by UTA.
- 18) **THIRD PARTY INTERESTS.** No person not a party to this Agreement shall have any rights or entitlements of any nature under it.
- 19) **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.

- 20) **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.
- 21) **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.
- 22) **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 UTA hereunder shall be in addition to, and not in lieu of, any right or remedy as provided by law.
- 23) **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 UTA:

Kensey Kunkel
MGR. Business Dev. and Sales
669 West 200 South
Salt Lake City, Utah 84101 (801)741-8806
kkunkel@rideuta.com

If to Administrator:

Darin Brush
Davis Technical College
550 E 300 S
Kaysville, UT 84037
Darin.brush@davistech.edu

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.

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

DAVIS TECHNICAL COLLEGE

UTAH TRANSIT AUTHORITY

DocuSigned by:
Darin Brush Date: 6/28/2021
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Name: Darin Brush

Title: President/CEO

By: _____
Name: Monica Morton
Title: Fares Director

By: _____
Name: Kensy Kunkel
Title: Manager Business Development and Sales

Approved as to Form:

DocuSigned by:
Mike Bell 6/28/2021
Michael Bell
Assistant Attorney General
Counsel for UTA

Exhibit A
Pass Program Configuration Form
Pass Purchase and Administration Agreement (Trip Based Discount)

Authorized UTA Services:

- Regular Service: Regular fixed bus routes, MAX bus rapid transit, Streetcar light rail, and TRAX light rail
- Premium Express Route Service: Regular Service + Express bus routes and FrontRunner commuter rail

Unauthorized services include ski service routes, Park City-SLC Connect routes, and special service routes including but not limited to ADA Paratransit service.

Form of Pass:

- UTA-Printed Passes
- Administrator-Printed Passes

Exhibit B
Base One-Way Fare Schedule
Starting December 1, 2020

Service Type	Regular Bus	Express Bus	TRAX light rail	Streetcar Commuter Rail	FrontRunner commuter rail 1
Base One-Way Fare (Applicable to each trip)	\$2.50	\$5.50	\$2.50	\$2.50 - \$10.30	\$2.50 – \$10.30

Fares on the Base Fare Schedule change periodically and these fares may change during the term of this Agreement. Fuel Surcharge Fees may apply. UTA's Current Fare Schedule includes any applicable Fuel Surcharge Fees. See UTA's website www.rideuta.com for additional information.

¹ FrontRunner commuter rail is a Distance Based Service. FrontRunner base fare is currently \$2.50. Each additional station costs \$.60. The maximum fare from Provo to Ogden is \$10.30.