

THIS AGREEMENT dated as of this 1st day of September, 2015.

**BETWEEN:**

**THE REGIONAL MUNICIPALITY OF WATERLOO**

Owner and operator of Grand River Transit (“GRT”)

(hereinafter called “Region”)

- and -

**FEDERATION OF STUDENTS, UNIVERSITY OF WATERLOO**

(hereinafter referred to as the “Federation”)

**WHEREAS** the Federation of Students and the Region have agreed upon the terms for the provision of a UPass for Eligible Students (as those terms are defined herein);

**AND WHEREAS** Council of the Region authorized the signing of this Agreement on April 1, 2015;

**AND WHEREAS** this Agreement was administered according to relevant policies and bylaws of the Federation, approved by the Board of Directors of the Federation of Students on March 3, 2015, and approved by the Student’ Council of the Federation of Students on March 8, 2015.

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the sum of ONE (\$1.00) DOLLAR paid by each of the parties to the other, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**PART I – DEFINITIONS**

“Base Fee” – means the fee for one UPass per student per School Term, charged by the Region;

“Confidential Information” – means the provisions of this Agreement and any information disclosed by the Region to the Federation, or by the Federation to the Region in furtherance of this Agreement, including but not limited to Student identification numbers and ‘personal information’, as that term is defined in the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.3, of all Eligible Students who purchase a UPass;

“Co-op Student” means an otherwise Full-Time Student currently engaged in a co-operative work term;

“Eligible Students” means all Full-Time Students, Co-op Students and Off-Term Students;

“Full-Time Distance Education Student” means an undergraduate student enrolled in a full time academic program available at campuses of the University of Waterloo in Waterloo Region who accesses this program by means other than physically attending classes on campus;

“Full-Time Student” - means all students registered as a full-time undergraduate student (as that term is defined by the UW Undergraduate Calendar, as amended from time to time), and enrolled in an academic program available at campuses of UW in Waterloo Region;

“GRT Service” – includes regularly scheduled bus routes, specials and express services, as well as MobilityPLUS and ION rapid transit service offered by the Region during all hours of regular operation;

“Off-Term Student” means a student who was a Full-Time Student in the previous School Term and who has shown an intention to register as a Full-Time student in the subsequent School Term;

“School Term” – shall mean a four (4) month period and throughout the year shall be referred to independently as the Fall Term (September 1 to December 31), the Winter Term (January 1 to April 30) and the Spring Term (May 1 to August 31);

“School Year” – means September 1<sup>st</sup> of a given year to August 31<sup>st</sup> of the following year;

“UPass” – means a valid UW WatCard or similar valid identification card which has been mutually agreed upon by the parties;

“UPass Fee” – means the Federation’s total charge for one UPass per Eligible Student per School Term, inclusive of the Base Fee;

“UPass Working Group” – means the Region, representatives of Wilfrid Laurier University Students’ Union, The Wilfrid Laurier University Graduate Students’ Association Inc., Federation of Students, University of Waterloo, Graduate Student Association-University of Waterloo, representatives of the English Language Institute, Renison University College, and administrators of Wilfrid Laurier University charged with the administration of matters relating to the UPass program and addressing any service related concerns that arise, including but not limited to, wait times and the number of riders left behind at bus stops in core university areas; and

“UW” – means University of Waterloo.

## **PART II – FEES AND FEE CHANGES**

The Base Fee commencing September 1, 2015 shall be \$81.15 per Eligible Student per applicable School Term. Thereafter, the Base Fee will increase by 4.99% effective September 1st of each subsequent School Year.

For clarity, the Base Fee for each School Year during the Term of this Agreement will be as follows:

Effective Date	Fee
01-Sep-2015	\$81.15
01-Sep-2016	\$85.20
01-Sep-2017	\$89.45
01-Sep-2018	\$93.91
01-Sep-2019	\$98.60

It is agreed that the Base Fee shall be payable to the Region by the Federation in accordance with Part VII of this Agreement.

The administrative component of the UPass Fee shall be agreed upon by all parties for each School Term. The Federation will submit the UPass Fee to the UW Board of Governors for approval no later than May 15 in each School Year. It is acknowledged that the Base Fee per Student is not necessarily equal to the UPass Fee.

The parties agree to meet to review the above fees, should the Region achieve its cost recovery target of passenger revenue being equal to the municipal operating subsidy, as defined in the GRT Business Plan, during the term of this Agreement.

### **PART III - IDENTIFICATION**

In return for the payment of the UPass Fee, all Eligible Students shall be entitled to unlimited ridership privileges on existing GRT Service upon presentation of a valid UPass; provided, however, that all Eligible Students lacking acceptable identification upon boarding will pay the regular fare in effect at the time and will not be entitled to any refund for such payment upon the eventual production of a UPass.

The parties agree that the WatCard shall be the primary method of identifying students eligible for the UPass program until such time as a smartcard system is introduced. Any proposed changes to the identification and validation systems will require the mutual agreement of both parties hereto. The parties agree to develop a Memorandum of Understanding defining roles and responsibilities related to implementation and integration of U-Pass into a smartcard payment system, prior to implementing U-Pass in such a system.

**PART IV – ELIGIBILITY**

In each School Term, all Eligible Students will be charged for and receive a UPass automatically, as part of their ancillary Federation of Students Administered Fees.

For clarity, Full-Time Distance Education Students shall not be eligible to participate in the UPass program.

**PART V – PERIOD OF VALIDITY**

A UPass will be valid for one School Term. The first School Term to which this Agreement shall apply shall be the Fall Term of 2015.

**PART VI – SERVICE INTERRUPTION**

In the event of a period of sustained interruption of GRT Service, exceeding 7 full service days, the Region’s liability will be limited to a reimbursement to the Federation on the basis of a daily rate, (defined as the current Base Fee divided by the number of days in the affected School Term, times the number of full days of lost service, times the number of UPasses in effect. A reimbursement will be paid within 30 days of the resumption of service.

**PART VII – PAYMENT SCHEDULE**

Payment of Base Fees to the Region in each School Term, as described in Part III, shall be made by the Federation as follows:

Schedule of Payments

FALL TERM

October 15	\$100,000
October 30	90% of the total Base Fees less \$100,000
December 1	Payment of the balance of all Base Fees owing together with a detailed reconciliation in accordance with Part VIII of this Agreement

WINTER TERM

January 15	\$100,000
February 15	90% of the total Base Fees less \$100,000
April 1	Payment of the balance of all Base Fees owing together with a detailed reconciliation in accordance with Part VIII of this Agreement

## SPRING TERM

July 15	90% of the Base Fee
August 1	Payment of the balance of all Base Fees owing together with a detailed reconciliation in accordance with Part VIII of this Agreement

After four (4) months from the balance of payment due date for each School Term, as set out in this Part VII, a late payment charge will be assessed at an interest charge of 1.0% per month (12% per annum).

In each applicable School Term, and with each Payment of the balance of all Base Fees, the Federation shall provide an accounting of the following:

- Total number of Students registered at the University;
- Number of Eligible Students;
- UPass Fees and Base Fees collected;
- Number of refunds given per student category as outlined in Part IX herein; and
- Such other information as is reasonably necessary to reconcile remittance and assessments.

The Region shall have the right to examine, audit, take extracts from, and make copies of the books, records and accounts of the Federation pertaining to the Base Fee, at any time during normal business hours upon seventy-two (72) hours prior written notice to the Federation.

## **PART VIII – RECONCILIATION OF BASE FEE AND UPASS FEES**

Thirty days prior to the end of each School Term, the Federation will provide a reconciliation of Base Fees and UPass Fees collected by the Federation for the current School Term, based on financial statements and prepared in accordance with generally accepted accounting procedures. The reconciliation will serve to balance all outstanding monies owing to either the Region or the Federation pursuant to this Agreement.

## **PART IX – REFUNDS**

Notwithstanding any other provisions herein contained, upon presentation by an Eligible Student to the Federation of appropriate and verifiable documentation (as determined by the Federation, acting reasonably), the following students will be entitled to a refund of their UPass Fee from the Federation as follows:

- a) UW students who retain valid C.N.I.B. registration during a given School Term will be eligible for a full refund for such School Term;
- b) UW students who pay their fees to the University of Waterloo, but are taking a majority of their academic courses at an out-of-region (outside the Waterloo Region) University in

the same School Term as they are charged for the UPass, will be eligible for a full refund for such School Term; and

- c) UW students who hold a valid Accessible Parking Permit issued by The Ministry of Transportation of Ontario, and are registered with the UW Parking Services and the Office of Persons with Disabilities at the beginning of a given School Term, will be eligible for a full refund for such School Term. The parties agree that the UPass Working Group (as that term is defined herein) will review the number of students who fall within this category and receive a refund in each School Term, as part of its administration of the UPass program as set out herein, and that this provision may be amended from time to time as determined necessary by the parties.

Applications for refunds must be received by September 30 (Fall Term), January 30 (Winter Term), and May 30 (Spring Term);

A complete and final list of refunded passes will be maintained by the Federation. Refunded passes will be summarized by category as part of the reconciliation described in section VIII, above.

The UPass Working Group (as that term is defined herein) may from time to time propose additional students who meet the criteria for a refund of the UPass Fee. Any and all amendments in this regard must be agreed to in writing by both parties prior to coming into effect.

#### **PART X – CHANGES TO ENROLLMENT STATUS**

Eligible Students who drop out of UW as of the Fall or Winter or Spring Drop Deadline per the UW Undergraduate Course Calendar shall receive a full refund of the UPass Fee. Students who drop out of school or change enrolment status after this date shall not be eligible for a refund.

#### **PART XI – FRAUDULENT ACTIVITY**

GRT reserves the right to check the validity of a UPass, and the identity of the user of the UPass and to deny use of the UPass, for cause, as set out in the policies of GRT which are available online at [www.grt.ca](http://www.grt.ca). Students who present an expired, altered, or fraudulent UPass will have their card confiscated by the Region. The Region will forward all confiscated cards to the University of Waterloo the end of the next business day after confiscation. Attempted fraudulent use of the UPass may result in penalties to students and/or prosecution under applicable legislation.

## **PART XII – TERM AND TERMINATION**

This Agreement shall commence on September 1, 2015 and shall remain in effect for a period of five (5) years and continue in effect until August 31, 2020 (the “Term”); provided, however, that any party hereto may terminate this Agreement upon 180 days written notice to the other parties.

## **PART XIII – LOST OR STOLEN PASSES**

The Region is not responsible for any UPass that has been lost or stolen. Eligible Students will be responsible to secure a new UPass through the processes established by UW and the Federation.

## **PART XIV – ARBITRATION**

If at any time any dispute shall arise between the Region and the Federation under this Agreement, then such dispute shall upon notice, by one party to the other parties that such a dispute exists, be referred to arbitration under such rules and at such time and place as the Region and the Federation shall mutually agree. In the event that the parties cannot mutually agree on matters concerning the arbitration, the provisions of the *Arbitration Act*, S.O. 1991, c.17, as amended, will apply. Nothing in the foregoing, though, shall prevent the parties from trying to resolve such dispute(s) in mutually satisfactory ways by discussion or negotiation.

## **PART XV – UPASS WORKING GROUP**

The parties hereto agree to meet as part of the UPass Working Group a minimum of once annually during the term of this Agreement to discuss service quality issues and overall program effectiveness. For clarity, the Region and the Federation will meet at least once per School Term to discuss the matters specifically related to the UPass program at UW.

## **PART XVI - MISCELLANEOUS**

The Federation will advise the Region as soon as it is aware UW is, or will be, closed due to unforeseen circumstances i.e., inclement weather, etc. The Region will advise the Federation as soon as it is aware that GRT services will be discontinued due to unforeseen circumstances i.e., inclement weather.

The Federation and the Region both during and after the term of this Agreement, shall indemnify and hold each other and their respective elected officials, officers, employees, volunteers, agents, contractors, administrators, executors, successors and assigns, harmless from any and all losses, damages, fines, penalties and surcharges, liabilities (including, but not limited to, any and all liability for damages to property and injury to persons, including death), judgments, claims, demands, causes of action, contracts, suits, actions of other proceedings of any kind (including,

but not limited to, proceedings or a criminal, administrative or quasi-criminal nature) and expenses (including, but not limited to, legal fees on a solicitor and client basis) which the indemnified persons or person may suffer or incur, howsoever caused, arising out of or in connection with, in any way related to, or as a result of acts or omissions, whether negligent or otherwise, of the indemnifier, its employees, sub-contractors, agents and permitted successors and assigns in the performance of this Agreement.

All administration fees collected with respect to the UPasses shall only be used for the purposes of the UPass program.

HST remittance is the responsibility of the Region with respect to the Base Fee, and the responsibility of the Federation with respect to the administration fee included as part of the UPass Fee.

GRT and the Federation will meet as reasonably necessary to review future GRT service plans, GRT business plan, and to review plans for information and promotion of UPasses.

All parties agree to work together to identify, communicate and market various travel options to Eligible Students including the various transit services and encourage the use of transit services. Notwithstanding any provision of this Agreement, the Federation shall not be deemed to be a sales agent or partner of GRT or the Region by virtue of this agreement.

The Federation shall designate a person on staff who is the day to day administrator of the UPasses and the contact person with respect to all issues related thereto.

This Agreement constitutes the entire agreement between the parties with respect to the subject matter contained in this Agreement and may be amended only by the mutual agreement, in writing, of all parties.

This Agreement cannot be assigned by the Federation without the express prior written consent of the Region.

## **PART XVII - NOTICES**

Any notices permitted or required under this Agreement shall be given by personal delivery or sent by prepaid registered mail to the parties at the following addresses. Notices sent by registered mail shall be deemed to be received three days after mailing.



To: Federation of Students, University of Waterloo  
University of Waterloo  
Student Life Centre, Room 1103  
200 University Avenue West  
Waterloo, ON N2L 3G1  
Fax# (519) 725-0992

Attention: President

To: The Regional Municipality of Waterloo  
Grand River Transit  
250 Strasburg Rd.  
Kitchener, ON N2E 3M6  
Fax#: (519) 585-1060

Attention: Director Transit Services

## **PART XVIII – CONFIDENTIAL INFORMATION**

The parties agree that they shall:

- (a) use the Confidential Information solely to the extent required to fulfill its obligations under this Agreement;
- (b) not disclose the Confidential Information except as may be specifically and expressly permitted in this Part XVIII;
- (c) take all reasonable precautions, and in any event not less than those precautions used to protect its own confidential information, and to keep the Confidential Information in the strictest confidence and to protect it from disclosure; and
- (d) not reproduce or copy in any medium in whole or in part any of the Confidential Information without the written approval of the disclosing party in each instance;

A recipient may only disclose or use the Confidential Information where such disclosure or use is expressly approved in writing by the disclosing party in each instance, or as otherwise required by applicable law or regulation or any governmental agency or other regulatory authority.

A recipient shall promptly notify the disclosing party of any unauthorized use, possession or disclosure of the Confidential Information of which it becomes aware.

Notwithstanding any other provisions herein contained, “Confidential Information” as used in this Agreement shall not include information that:

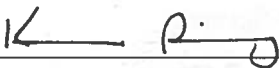
- (a) is already known to the recipient when disclosed;
- (b) becomes part of the public domain without breach of this Agreement;
- (c) is developed by the recipient independently and without reference to the received Confidential Information; or
- (d) is required to be disclosed under operation of law.

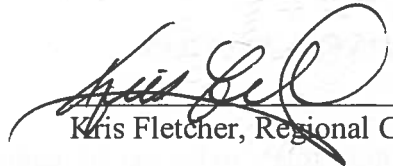
The provisions of this Part XVIII shall survive the expiration or termination of this Agreement.

Each party agrees that any violation of this Part XVIII may cause irreparable harm to the disclosing party, entitling the disclosing party to seek injunctive relief in addition to all other legal and equitable remedies.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the date first written above.


**THE REGIONAL MUNICIPALITY OF WATERLOO**

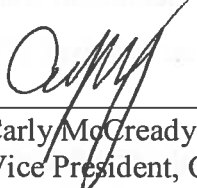
  
\_\_\_\_\_  
Ken Seiling, Regional Chair

  
\_\_\_\_\_  
Kris Fletcher, Regional Clerk

We have authority to bind the Corporation.

**FEDERATION OF STUDENTS, UNIVERSITY OF WATERLOO**

Per:   
\_\_\_\_\_  
Name: Chris Lolas  
Title: President

Per:   
\_\_\_\_\_  
Name: Carly McCready  
Title: Vice President, Operations & Finance

We have authority to bind the Corporation.