

Service Agreement

THIS SERVICE AGREEMENT made as of and from August ____, 2023.

BETWEEN:

THE CITY OF FREDERICTON, a municipal corporation by virtue of the *Local Governance Act*, having its head office at 397 Queen Street, Fredericton, New Brunswick (hereinafter called the "**City**");

-and-

HOTSPOT PARKING INC., a body corporate pursuant to the *Business Corporations Act*, having its registered office at 515 Beaverbrook Court, Fredericton, New Brunswick (hereinafter called the "**HotSpot**");

-and-

ST. THOMAS UNIVERSITY, a duly incorporated company under and by virtue of the *Companies Act* having its head office in the City of Fredericton and Province of New Brunswick (hereinafter referred to as the "**University**").

-and-

THE STUDENTS' UNION OF ST. THOMAS UNIVERSITY, INC., a duly incorporated company under and by virtue of the *Companies Act* having its head office in the City of Fredericton and Province of New Brunswick (hereinafter referred to as the "**Students' Union**");

hereinafter collectively referred to as "the Parties" and individually as a "Party")

WHEREAS the City has entered into agreements with the University and Students Union regarding the provision of unlimited use of Fredericton Transit for students during regular business hours, known as the Universal Bus Pass Program ("UBPP");

AND WHEREAS historically, student identification cards required a manual application of Fredericton Transit validation stickers on an annual basis, which made for a challenging and time consuming process;

AND WHEREAS student identification methods were modified by the University in the 2019-2020 academic year affecting the ability to incorporate transit usage validation;

AND WHEREAS HotSpot is able to provide an alternate solution for validating student identification in association with the UPass (“Digital UPass”);

AND WHEREAS the Parties recognize and accept the Digital UPass as a valid bus pass under the UBPP;

AND WHEREAS the Parties entered into an agreement effective September 1, 2021 and wish to enter into a new agreement;

IT IS HEREBY ACKNOWLEDGED that in exchange for the mutual covenants herein and other good and valuable consideration, the Parties agree to the following:

1. DEFINITIONS

“Full-time Student” means people enrolled with the University taking nine (9) credits or more per semester as per the UBPP Agreements between the City and the University and the Students’ Union.

“Part-time Student” means people enrolled with the University taking fewer than nine (9) credits per semester and who have opted-in to the UBPP as per the UBPP Agreements between the City and the University and the Students’ Union.

“RTIPPA” means the *Right to Information and Protection of Privacy Act*, SNB 2009, c. R-10.6, as amended.

2. TERM

2.1 This Agreement shall be for a term of two (2) years, commencing on September 1, 2023 and expiring on August 31, 2025 (the “Term”).

2.2 In the event that the University must fully or partially restrict attendance on the campus and is required to offer alternate off-campus methods of learning to its students prior to September 1 of the relevant academic year, the Parties agree and accept to extend this Agreement by one (1) year. Written notice of the University’s decision must be provided to the City and Hotspot no later than September 1 of the respective academic year for the extension to be effective.

2.3 The City shall advise HotSpot of the extension referred to in Article 2.2 herein within forty-eight (48) hours.

2.4 In the event this Agreement is extended pursuant to Article 2.2 herein, this Agreement will expire on August 31, 2026.

3. TERMINATION

- 3.1 This Agreement may be terminated by any Party with or without cause upon sixty (60) days prior written notice to the other Parties.

4. SERVICES

- 4.1 HotSpot shall make the Digital UPass available to all Full-time Students and Part-time Students enrolled in the UBPP and who are attending the University.
- 4.2 The City shall provide transportation services to Full-time Students and Part-time Students who have valid paper based student transit passes (UPass) or the Digital UPass.

5. CITY OBLIGATIONS

- 5.1 The City acknowledges and agrees to provide transit service in accordance with the UBPP Agreements between the City and the University and the City and the Students' Union.
- 5.2 The City acknowledges and accepts to provide UPasses to the University as per Section 4.7 of the UBPP Agreement between the City and the University and Section 7.3 of this Agreement.

6. HOTSPOT OBLIGATIONS

- 6.1 HotSpot acknowledges and agrees that it will prepare bilingual communication materials outlining how registered Full-time Students and Part-Time Students can obtain their Digital UPass using HotSpot.
- 6.2 HotSpot acknowledges and agrees that the communication material will be provided to the City, the University and the Students' Union for review, with final materials to be provided to the University and the Students' Union no later than August 15, 2019.
- 6.3 HotSpot acknowledges and agrees to provide, at its sole cost, a minimum of one (1) staff person to provide on-boarding technical support for a minimum of nine (9) hours during the University and the Students' Union fall orientation session.
- 6.4 HotSpot acknowledges and agrees to provide, at its sole cost, 24/7 technical customer support for matters relating to the use of the Digital UPass and will resolve any concerns or address questions in a prompt manner.

- 6.5 HotSpot acknowledges and agrees to provide the City with a web-based self-serve dashboard customized with fields mutually agreed to between HotSpot and the City.
- 6.6 HotSpot acknowledges and agrees to provide real-time push notifications to digital UPass customers as requested by the City, through Fredericton Transit, for the purpose of notifying users of transit service impacts related to matters such as weather and road conditions.
- 6.7 HotSpot acknowledges and agrees to provide a web-based self-serve dashboard and/or a spreadsheet to the University and the Students' Union customizable with fields amenable to HotSpot, the University, the Students' Union, and the City, upon request, indicating which Full-time Students and Part-time Students (per student ID Number) have registered to use the Digital UPass.
- 6.8 HotSpot acknowledges and agrees to manage and monitor the Digital UPass in manner to ensure that the UPass applies only to the individually enrolled Full-time Student or Part-time Student so as to avoid duplication and/or fraud.
- 6.9 HotSpot acknowledges and agrees to provide a prompt during the Digital UPass registration process within its terms and conditions that will serve to inform Full-time Students and Part-time Students that there will be no refunds once the registration is complete.
- 6.10 HotSpot acknowledges and agrees to change the background on the Digital UPass on an annual basis to a background that is satisfactory to the City.
- 6.11 HotSpot acknowledges and agrees to ensure the Digital UPass includes features that enable real-time validation by the City, through Fredericton Transit, which will serve to mitigate potential fare evasion or UPass duplication.
- 6.12 HotSpot acknowledges and agrees to provide, at its sole cost, training to all City Transit employees on the use of the UPass, as needed and requested by the City.
- 6.13 HotSpot acknowledges and agrees to complete any system upgrades or updates outside of regular Fredericton Transit service hours in an effort not to impact function or use of Digital UPasses.
- 6.14 HotSpot acknowledges and agrees to provide ridership data collected through the Digital UPass to the City of Fredericton.
- 6.15 HotSpot acknowledges and agrees to be responsible for all administrative training required for reconciling accounts and exporting data.
- 6.16 HotSpot acknowledges and agrees to maintain a program to identify and resolve any vulnerabilities identified by its security assessor or other relevant person and to notify and disclose any information the City may require to secure its own systems with respect to the same.

- 6.17 HotSpot acknowledges and agrees to implement and maintain a program to protect against any reasonably anticipated threats or hazards to the security or integrity of customer data or unauthorized access to or use of customer data; and ensure the proper disposal of customer data, as applicable.
- 6.18 HotSpot acknowledges and agrees to back up all data every twelve (12) hours and hold for thirty (30) days to protect the Parties of any loss or corruption of said data.
- 6.19 HotSpot acknowledges and agrees that any and all information obtained from Full-time Students and Part-time Students registering to use the Digital UPass pursuant to this Agreement will, at no time or in any manner, be sold or shared with third parties.
- 6.20 HotSpot acknowledges and agrees that Full-time Students and Part-time Students will be provided with the option to opt out of all communications that may be available from HotSpot including but not limited to monthly service updates, receipts, and City or Fredericton Transit service alerts.

7. UNIVERSITY AND STUDENTS' UNION OBLIGATIONS

- 7.1 The University acknowledges and agrees to provide HotSpot with validated student identification numbers on or before August 25th and as otherwise requested by the City or HotSpot.
- 7.2 The University and the Students' Union acknowledge and agree to disseminate information to registered Full-time Students and Part-time Students outlining how to obtain the annual Digital UPass using HotSpot.
- 7.3 The University acknowledges and agrees to provide the City with the total number of eligible Full-time Students and Part-time Students as well as a total number of Full-time Students and Part-time Students who cannot or choose not to use smartphones for the purposes of obtaining a Digital UPass no later than seven (7) days prior to the ensuing month.
- 7.4 The University and the Students' Union acknowledge and agree to communicate with Full-time Students and Part-time Students that refunds will not be issued for the Digital UPass once the HotSpot registration process for same is completed.
- 7.5 The University and the Students' Union acknowledge and agree to disseminate information about the Digital UPass as per Sections 6.1 and 6.2 of this Agreement.

8. FEES

- 8.1 During the Term hereof, HotSpot shall charge the City \$1.00 per month, per Full-time Student and Part-time Student eligible to receive the Digital UPass as per the

UBPP Agreements between the City and the University and the City and the Students' Union.

9. PAYMENTS

- 9.1 During the Term hereof, HotSpot shall issue monthly invoices within five (5) days of the end of the preceding month, for the charges to the City. Invoices shall be sent electronically to AP@fredericton.ca. If invoices cannot be sent electronically, they shall be mailed to the attention of Accounts Payable; The City of Fredericton, 397 Queen Street, Fredericton, N.B. E3B 1B5. In addition to the GST/HST Registration Number, the Supplier is required to provide the amount of GST/HST separately on all invoices.
- 9.2 The City shall pay the fee amounts to HotSpot within the period of thirty (30) days following the issue of an invoice.
- 9.3 As the City does not pay by cheque and payment is done via Electronic Funds Transfer (EFT), HotSpot is required to provide its banking information to the City.

10. SOFTWARE

- 10.1 HotSpot shall license all software, including all web and mobile applications and related documentation ("Software") necessary for the City to operate a transit fare management service for Digital UPass which allows the University and the Students' Union to use the HotSpot app as a proof of fare payment in any and all transit services owned or managed by the City through a web-based service.
- 10.2 HotSpot shall ensure that the Software integrates correctly with the University's existing enrolment system, in that the Software will transmit and process data using the API including student identification numbers and current enrolment in line with the integration schedule set by the University.
- 10.3 The Parties agree that prior to any disclosure of any information regarding the use of the Software, the disclosing Party must obtain written permission from the non-disclosing Parties, which shall not unreasonably be withheld.
- 10.4 Notwithstanding Section 10.3 herein, the Parties agree that the City has the right and ability to report on usage rates and any analyses based thereupon without first obtaining permission, written or otherwise.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 The City, the University and the Students' Union acquire a revocable, non-exclusive, non-assignable, non-transferable and non-subleaseable right and license to use and access the Software for their internal business purposes. All

intellectual property rights associated with the HotSpot brand and the Software including, without limitation, trade names, source code, trademarks, copyrights, patents, and trade secrets, not explicitly granted to the City, the University or the Students' Union in this Agreement are reserved for HotSpot. All intellectual property rights associated with the City's, the University's or the Students' Union's brands and any City, University or the Students' Union data submitted to HotSpot or City, University or the Students' Union owned or licensed software or other intellectual property are reserved to the City, the University and the Students' Union (or their licensors) respectively as the case may be (collectively "Provider IP").

- 11.2 The Parties will not directly, indirectly, alone or with another party, as it relates to the other party's Software or Provider IP, as the case may be (i) copy, disassemble, reverse engineer, or decompile the Software, or the Provider IP or any subpart thereof; (ii) modify, create derivative works base upon, or that translate the Software or Provider IP or source code; (iii) transfer or otherwise grant any rights in the Software of the Provider IP or source code in any form to any other party; and (iv) attempt to do any of the foregoing or cause or permit any third party to do or attempt to do any of the foregoing, except as expressly permitted hereunder.

12. WARRANTIES AND INDEMNIFICATIONS

- 12.1 HotSpot warrants to the Parties that:

- (a) it will comply with all applicable legal and regulatory requirements applying to the exercise of HotSpot's rights and the fulfilment of its obligations under this Agreement.
- (b) the Software will perform in accordance with the specification and as otherwise described herein.
- (c) the Professional Services performed under this Agreement shall be performed in a professional and competent manner.

- 12.2 The Parties warrant to each other that they have the legal right and authority to enter into this Agreement and to perform their obligations under this Agreement.

- 12.3 All of the Parties' warranties and representations in respect of the subject matter of this Agreement are expressly set out in this Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.

- 12.4 HotSpot shall, at its expense, indemnify, defend and hold the Parties harmless from and against any claim that the Software or services infringe an intellectual property right provided, however, that:
- (a) the Parties promptly notify HotSpot of any such claim, and
 - (b) permit HotSpot to defend with counsel of its own choice, and
 - (c) the Parties give HotSpot such information and/or assistance in the defense thereof as HotSpot may reasonably request.
- 12.5 If the Software or services outlined in this Agreement are adjudged to infringe an intellectual property right by a court of competent jurisdiction, HotSpot shall, at its expense and election either:
- (a) procure the right for the Customer to continue using the infringing items,
 - (b) replace the infringing items with a functionally equivalent non-infringing product, or
 - (c) modify the infringing items so that they are non-infringing.
- 12.6 Each Party shall indemnify, defend and hold harmless the other Party, its agents, employees, affiliates, successors and assigns from any claims, demands, debts, suits, causes of action, losses, damages, fines, penalties, liabilities, costs and expenses, including attorney's fees, disbursements, court costs whatsoever of every name and nature, both in law and in equity, to any person or property (i) arising from or claimed to have arisen from the omission, fault, wilful act, negligence, or other misconduct of the indemnifying party's employees, servants, agents, subcontractors or licensees, or (ii) resulting from the violation by the indemnifying party of the terms of this Agreement.
- 12.7 HotSpot shall indemnify and save the Parties harmless from any and all liabilities of whatever kind relating to any unauthorized disclosure or other breach of confidentiality or privacy with respect to any customer, end user data or any Provider IP.
- 12.8 Each Party agrees that the obligations assumed herein shall survive the expiration of this Agreement.

13. INSURANCE

- 13.1 HotSpot shall obtain and maintain in force during the Term of this Agreement:

- (a) a general liability insurance policy, to include contingent employer's liability and contractual liability, insuring HotSpot's obligations and responsibilities with respect to performance of Services as set out in this Agreement in an amount of no less than Five Million (\$5,000,000.00) CAD per occurrence;
- (b) an errors and omissions liability insurance policy of no less than Five Million (\$5,000,000.00) CAD in the aggregate. Such coverage shall include, but not be limited to (i) privacy breach and violation as a result of unauthorized access to or wrongful disclosure or dissemination of personal information, failure to properly handle, manage, store, destroy or control personal information and include failure to comply with privacy laws and their regulations regarding the collection, access, transmission, use, and accuracy. Such coverage will extend to include the costs associated with notification of affected parties, regardless if required by statute as well as any fines or penalties or cost imposed as a result of the breach including defence of any regulatory action involving a breach; (ii) network security to protect against incidents arising from system failures; (iii) privacy breach expenses; (iv) coverage for damages resulting from dishonest or criminal acts committed by Provider's employees or Affiliates.
- (c) a cyber liability policy of no less than Five Million (\$5,000,000.00) CAD in the aggregate.

13.2 All policies of insurance shall name the "City of Fredericton" and "St. Thomas University" and the "Students' Union of St. Thomas University, Inc." as additional insureds, and any other party required by the City as an additional insured, and contain a provision stating that each policy will not be cancelled or permitted to lapse unless the insurer notifies the City in writing at least thirty (30) days prior to the date of cancellation or lapse.

13.3 The insurance policies shall be written with an insurer properly licensed to do business in New Brunswick. Any deductible shall be borne by HotSpot. HotSpot shall deliver to the City certificates of insurance required under this Agreement within fifteen (15) days of annual renewal.

14. LIMITATIONS AND EXCLUSIONS OF LIABILITY

14.1 HotSpot shall not be liable to the Parties in respect of any loss or corruption of any data, database or Software due to City, the University and Students' Union or their clients use of the Digital UPass.

14.2 Neither Party shall be liable to the other Party in respect of any special, indirect or consequential loss or damage.

14.3 No Party shall incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement, where such delay or failure is caused, in whole or in part, by a Force Majeure

event. If a Party asserts a Force Majeure event for failure to perform the Party's obligations, then the asserting party shall notify the other Parties of the event and take reasonable steps to minimize the delay or damages caused by the Force Majeure event.

- 14.4 No action arising out of any claimed breach of this Agreement may be brought by either party more than one (1) year after the cause of action has accrued. Each party shall be liable for breaches of its affiliates and contractors under this Agreement.
- 14.5 All UPass users will need to independently create accounts and agree to the HotSpot Terms of Service and Privacy Policy independent of this agreement. The relationship between HotSpot and its users will be governed under those agreements available here:
- Terms of Service: <https://htsp.ca/hotspot-terms-service/>
 - Privacy Policy: <https://htsp.ca/privacy/>

15. **FORCE MAJEURE EVENT**

- 15.1 Parties shall not be liable for any delay or failure to perform their obligations hereunder due to causes beyond their reasonable control, including but not limited to natural disaster, flood, fire, epidemic, pandemic, casualty, act of God, public enemy, war, riot, terrorism, or governmental act, strike, labour dispute, stop-work order or injunction; provided, however, that such Party will not have contributed in any way to such event, and has notified the other Parties without undue delay. If the delay or failure continues beyond ten (10) calendar days, any Party may terminate this Agreement, except that the City will be obligated to pay HotSpot for the Services provided under this Agreement prior to the effective date of such termination.

16. **NOTICES**

- 16.1 Any notice to be given pursuant to this Agreement shall be in writing and may be delivered by registered mail, email or delivered personally to the Parties hereto as follows:

To HotSpot:

HotSpot Parking Inc.
390 King Street, Suite 302
Fredericton, NB E3B 1E5
Attention: Phillip Curley, CEO

By email: Phillip@htsp.ca

To the City:

The City of Fredericton
397 Queen Street
Fredericton, NB E3B 1B5
Attention: Charlene Sharpe, Manager of
Transit and Parking

By email: Charlene.sharpe@fredericton.ca

To the University:

St. Thomas University
51 Dineen Drive
Fredericton, New Brunswick
E3B 5G3
Attention: Dr. M. Nauman Farooqi,
President

By email: president@stu.ca

To the Students' Union:

The Students' Union of St. Thomas
University, Inc.
21 Pacey Drive, Room 32
Student Union Building
Fredericton, New Brunswick
E3B 5A3
Attention: _____, President

By email: su_president@stu.ca

or delivered to such other person or faxed or e-mailed or sent by registered mail to such other address as either Party may designate for itself by notice given in accordance with this Section.

- 16.2 Any such notice shall be deemed to have been given and received on the day on which it was delivered or transmitted or if such day is not a business day, on the next following business day.

17. PRIVACY AND CONFIDENTIALITY

- 17.1 Parties agree to treat all information [including personal information (as defined in *Right to Information and Protection of Privacy Act* (New Brunswick) ("RTIPPA") and or end user data] provided, or to be provided, by any Party, information analyses, summaries and other work product derived from such information ("Information") in accordance with the provisions of this section. The Information will be used solely in connection with this Agreement.
- 17.2 HotSpot represents, and the Parties rely on such, that it has an information security policy that complies with applicable laws, including without limitation, all privacy legislation and all of the City's obligation and policies with respect to same. HotSpot further represents it will protect and safeguard all Information to prevent unauthorized access thereto. HotSpot agrees to promptly notify the City in writing upon becoming aware of a breach of its security policy or any unauthorized disclosure of information that HotSpot is required to keep confidential under applicable law. HotSpot shall take immediate steps to mitigate any breach or unauthorized disclosure.
- 17.3 Parties shall agree to comply with all applicable privacy and data protection statutes, rules, or regulations including but not limited to RTIPPA governing the respective activities of the Parties. The City, the University and Students' Union hereby consent to the use, processing and/or disclosure of the City's and/or the

University and Students' Union data only for the purposes described herein and to the extent such use or processing is necessary for HotSpot to carry out its duties and responsibilities under this Agreement or as required by law.

- 17.4 HotSpot represents, warrants and undertakes to the City that it shall comply with RTIPPA, the terms and conditions contained in the Privacy Protection Schedule, attached hereto as Schedule A and protect personal information required by the City as if it were a public body under RTIPPA.

18. DATA OWNERSHIP

- 18.1 HotSpot acquires an unlimited license, irrevocable by the City, the University and Students' Union or their clients to store, display, transmit, and use all data provided by registered Full-time Students and Part-time Students and all data stored, created, or transmitted by HotSpot as a result of any end user's use of any component of the Software, which license shall be strictly and solely for the limited purpose of delivering the Services to the City, the University and Students' Union in accordance with HotSpot's Privacy Policies available at <https://htsp.ca/privacy/> .

19. ADDITIONAL TERMS AND CONDITIONS

19.1 Sections and Headings

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the interpretation of this Agreement.

19.2 Entire Agreement

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof except as herein provided.

19.3 Amendments

If at any time during the continuance of this Agreement the Parties shall deem it necessary or expedient to make any alterations or additions to this Agreement they may do so by means of an executed written Agreement between them which shall be supplemental to and form part of this Agreement.

19.4 Independent Contractor

HotSpot is an independent contractor and not an agent or employee of the City, the University and Students' Union. No agency, partnership, franchise, joint venture, or employment relationship exists between HotSpot or the Parties. HotSpot shall be fully and solely responsible for the supervision, control, performance, compensation, benefits (including without limitation, all forms of insurance) withholdings, health and safety of all of its employees and agents. Neither the City, the University or Students' Union shall be responsible or liable for any withholding of taxes or contributions to the provincial worker's compensation, unemployment or other funds or programs.

19.5 Applicable Law

The Parties acknowledge and agree that this Agreement shall be governed by, construed and enforced in accordance with the laws of the Province of New Brunswick. The courts of the Province of New Brunswick shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.

19.6 Severability

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions hereof, and each provision is hereby declared to be separate, severable and distinct.

19.7 Successors and Assigns

This Agreement shall enure to the benefit of and shall be enforceable by the Parties. Neither Party may assign any of its rights or obligations hereunder.

19.8 Costs

It is acknowledged that each Party shall pay his own costs, charges and expenses of and incidental to the preparation of this Agreement.

19.9 Independent Legal Counsel

The Parties acknowledge and agree that they have had the opportunity to have this Agreement reviewed by their respective legal counsel or have had the opportunity to seek their own legal counsel with respect to this Agreement.

19.10 Waiver

No breach of any provision of this Agreement shall be waived except with the express written consent of the Party not in breach.

19.11 Right to Information

The Parties acknowledge that the City and the University are subject to the *Right to Information and Protection of Privacy Act* (S.N.B. 2009, c. R-10.6), and as such, disclosure and confidentiality obligations are governed thereunder.

19.12 Dispute Resolution

If the Parties should have a dispute with respect to this Agreement, they shall first attempt to resolve such dispute between themselves, more specifically, the dispute shall be referred to their representative set out under Article 16 or their identified delegates who will use their best efforts to resolve the matter amicably. If the Parties are unable to resolve the dispute in this matter within a reasonable time, then any dispute between the Parties hereto as to any matter arising under this Agreement shall be referred to a single arbitrator to be jointly appointed by the Parties or selected by a Judge of the Court of Queen’s Bench of New Brunswick on application of the Parties. Such arbitration shall be conducted pursuant to the *Arbitration Act*, RSNB 2014, c. 100, as amended. The decision of the arbitrator shall be final and binding. Arbitration shall be held in the City of Fredericton, New Brunswick with the costs shared equally between the Parties

19.13 Schedules

Any schedule attached hereto forms part of this Agreement.

19.14 Contra Proferentum Rule Not Applicable

Should any provision of this Agreement require judicial interpretation, mediation or arbitration, it is agreed that the court, mediator or arbitrator interpreting of construing same shall not apply a presumption that the terms thereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same. It is agreed that all Parties, directly or through their agents, have participated in the preparation hereof.

**THE REMAINDER OF THIS PAGE
IS LEFT INTENTIONALLY BLANK**

IN WITNESS WHEREOF the Parties have by their authorized representatives executed this Agreement on the day and year first above written.

Signed, Sealed and Delivered)

) **THE CITY OF FREDERICTON**

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)
) _____
) Kate Rogers
) Mayor

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) _____
) Jennifer Lawson
) City Clerk

) **HOTSPOT PARKING INC.**

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)
) _____
) Phillip Curley
) Chief Executive Officer

)
)
) _____
) Deepak Darda
) Global Director, Innovation

) **ST. THOMAS UNIVERSITY**

)
)
) _____
) Dr. M. Nauman Farooqi
) President and Vice Chancellor

) **THE STUDENTS' UNION OF ST.
THOMAS UNIVERSITY, INC.**

)
)
) _____
) President

SCHEDULE A

PRIVACY PROTECTION SCHEDULE

Purpose

1. The purpose of this Schedule is to:
 - (a) enable the Local Government to comply with the Local Government's statutory obligations under the RTIPPA with respect to Personal Information that is collected, retained, used, or disclosed as a result of the provision of the Services;
 - (b) ensure that, as a service provider, HOtSpot is aware of the obligations under the applicable legislation with respect to Personal Information that is collected, retained, used or disclosed as a result of the provision of the Services; and
 - (c) "Personal Information" means recorded information about an identifiable individual that comes into the custody or under the control of the Supplier as a result of the provision of the Services and has the meaning given in the RTIPPA (SNB 2009, c. R-10.6, as amended)

Under Section 1 of RTIPPA, definitions "Personal Information" means recorded information about an identifiable individual, including but not limited to (a) the individual's name, (b) the individual's home address or electronic mail address or home telephone or facsimile number, (c) information about the individual's age, gender, sexual orientation, marital status or family status, (d) information about the individual's ancestry, race, colour, nationality or national or ethnic origin, (e) information about the individual's religion or creed or religious belief, association or activity, (f) personal health information about the individual, (g) the individual's blood type, fingerprints or other hereditary characteristics, (h) information about the individual's political belief, association or activity, (i) information about the individual's education, employment or occupation or educational, employment or occupational history, (j) information about the individual's source of income or financial circumstances, activities or history, (k) information about the individual's criminal history, including regulatory offences, (l) the individual's own personal views or opinions, except if they are about another person, (m) the views or opinions expressed about the individual by another person, and (n) an identifying number, symbol or other particular assigned to the individual.

Protection of Personal Information

2. HotSpot acknowledges that any Personal Information received by it from the City or STU, or exposed to it in connection with the Services is done so solely for the purposes of the provision of the Services, and that HotSpotr acquires no right to or interest in the Personal Information except as set out in the Agreement. HotSpot shall not collect, use or disclose any Personal Information other than as is necessary to provide the Services.
3. Unless the Agreement otherwise specifies, or the City otherwise directs in writing, HotSpot must collect Personal Information directly from the individual the information is about.
4. Unless the Agreement otherwise specifies or the City otherwise directs in writing, HotSpot must make provision to inform an individual (and obtain their consent) from whom Personal Information is collected:
 - (a) the purpose for collecting it;
 - (b) the legal authority for collecting it; and
 - (c) the title, business address and business telephone number of the person designated by the City to answer questions about the collection of Personal Information.

No secondary use of Personal Information

5. HotSpot covenants and agrees that it will not use any Personal Information provided or disclosed by the City for any purpose other than that for which it was provided or disclosed to HotSpot, and as authorized in the Agreement.

No Disclosure without authorization

6. Except as is necessary to fulfill its obligations under the Agreement, or as required by law, HotSpot shall not disclose any Personal Information to any third party. In the event HotSpot receives any request to disclose Personal Information, it will immediately notify the City.

Integrity of Personal Information

7. HotSpot must make every reasonable effort to ensure the integrity and completeness of any Personal Information that comes within the custody or control of HotSpot as a result of the provision of the Services where that Personal Information is to be used by HotSpot or the City to make a decision that directly affects the individual the information is about.

Requests for access to Personal Information

8. If HotSpot receives a request for access to Personal Information from a person other than the City, HotSpot must promptly advise the person to make the request to the City unless the Agreement expressly requires HotSpot to provide such access and, if the City has advised HotSpot of the name or title and contact information of an official of the City to whom such requests are to be made, HotSpot must also promptly provide that official's name or title and contact information to the person making the request.

Correction of Personal Information

9. Within five (5) business days of receiving a written direction from the City to correct or annotate any Personal Information, the Supplier must annotate or correct the information in accordance with the direction.
10. When issuing a written direction under Section 7 of this Schedule, the City must advise HotSpot the date the correction request to which the direction relates was received by the City in order that HotSpot may comply with Section 10 of this Schedule.
11. Within five (5) business days of correcting or annotating any Personal Information under Section 8 of this Schedule, HotSpot must provide the corrected or annotated information to any party to whom, within one (1) year prior to the date the correction request was made to the City, HotSpot disclosed the information being corrected or annotated.
12. If HotSpot receives a request for correction of Personal Information from a person other than the City, HotSpot must promptly advise the person to make the request to the City and, if the City has advised HotSpot of the name or title and contact information of an official of the City to whom such requests are to be made, HotSpot must also promptly provide that official's name or title and contact information to the person making the request.

Security safeguards

13. HotSpot must protect Personal Information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal, including any expressly set out in the Agreement.

Storage and access to Personal Information

14. HotSpot must not store Personal Information outside Canada or permit access to Personal Information from outside Canada.

Retention of Personal Information

15. HotSpot shall only retain Personal Information for as long as reasonably necessary for the purposes for which it is disclosed to HotSpot. Following such time, HotSpot shall return or destroy any Personal Information that it has received from the City. At the City's request, HotSpot shall forthwith provide the City with a statutory declaration, sworn by an officer or director of HotSpot, certifying whether its obligations under this Section have been fulfilled. Unless the Agreement otherwise specifies or unless the City directs otherwise in writing, HotSpot must retain Personal Information for at least one (1) year following the date of its use and securely dispose of Personal Information no later than three years after its use.

Use of Personal Information

16. Unless the City otherwise directs in writing, HotSpot may only use Personal Information if that use is required for the performance of the Services.

Disclosure of Personal Information

17. Unless the City otherwise directs in writing, HotSpot may only disclose Personal Information inside Canada to any person other than the City if the disclosure is for the performance of HotSpot's obligations or the exercise of HotSpot's rights, under the Agreement.
18. Unless the Agreement otherwise specifies or the City otherwise directs in writing, HotSpot must not disclose Personal Information outside Canada.

Notice of unauthorized disclosure

19. If HotSpot knows that there has been an unauthorized disclosure of Personal Information in the custody or under the control of HotSpot, HotSpot must immediately notify the City and take all necessary steps to mitigate and remediate. If HotSpot becomes aware of a security breach or any other event that compromises the security, confidentiality or integrity of any Personal Information (an "Incident"), HotSpot shall take appropriate actions to contain, investigate and mitigate the Incident. HotSpot shall also notify the City and any individual of each and every Incident as soon as reasonably possible.

Inspection of Personal Information

20. In addition to any other rights of inspection the City may have under the Agreement or under statute, the City may, at any reasonable time during normal business hours and on reasonable notice to HotSpot, enter on HotSpot's premises to inspect any Personal Information in the custody or control of HotSpot as a result of its provision of the Services, and any of HotSpot's information management policies or practices relevant to HotSpot's management of Personal Information in connection with the Services or HotSpot's compliance with this Schedule, and HotSpot must permit, and provide reasonable assistance to, any such inspection. The inspection will be conducted in a manner as not to interfere unreasonably with HotSpot's business operations and is subject to HotSpot's reasonable confidentiality and security policies, procedures and requirements.

Compliance with the applicable legislation and directions

21. HotSpot will comply with the requirements of the applicable legislation, in relation to Personal Information including RTIPPA and any relevant and applicable similar legislation, including any applicable order under the applicable legislation, and any direction given by the City that is permitted or required to be given under this Agreement or pursuant to legislation.
22. HotSpot acknowledges that it is familiar with the requirements of the applicable legislation governing Personal Information that are applicable to it.

Irreparable Harm

23. HotSpot acknowledges that all Personal Information disclosed or provided to it under the Agreement is held by HotSpot in trust for the sole benefit of the City. HotSpot acknowledges that any disclosure or misappropriation of any of the Personal Information in violation of the Agreement or this Schedule may cause the City irreparable harm and/or harm that is impossible to quantify, and therefore agrees that the City shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further disclosure or breach and for such other relief as the City shall deem appropriate. Such right of the City is to be in addition to the remedies otherwise available to the City at law or in equity. HotSpot expressly waives the defence that a remedy in damages will be adequate and any requirement in an action for specific performance or injunction for the posting of a bond by the City.

Notice of non-compliance

24. If for any reason HotSpot does not comply, or anticipates that it will be unable to comply, with a provision in this Schedule in any respect, HotSpot must promptly notify the City of the particulars of the non-compliance or anticipated

non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

Termination of Agreement

25. In addition to any other rights or remedies which the City may have under the Agreement or otherwise at law, the City may, upon any failure of HotSpot to comply with this Schedule in a material respect, terminate the Services, or a component thereof, and/or the Agreement.

Interpretation

26. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.
27. Any reference to the “HotSpot” in this Schedule includes any subcontractor or agent retained by HotSpot to perform obligations under the Agreement and HotSpot must ensure that any such subcontractors and agents comply with this Schedule.
28. The obligations of HotSpot in this Schedule will survive the termination of the Agreement and will only expire when HotSpot no longer has any Personal Information generated as a result of the Services in its custody or control.
29. If a provision of the Agreement (including any direction given by the City under this Schedule) conflicts with a requirement of the applicable legislation or an applicable order under the applicable legislation, the conflicting provision of the Agreement (or direction) will be inoperative to the extent of the conflict.
30. HotSpot must comply with the provisions of this Schedule despite any conflicting provision of this Agreement or, subject to Section 28 of this Schedule, the law of any jurisdiction outside Canada.
31. Nothing in this Schedule requires HotSpot to contravene the law of any jurisdiction outside Canada unless such contravention is required to comply with the applicable legislation.

PROVINCE OF NEW BRUNSWICK

COUNTY OF YORK

AFFIDAVIT OF CORPORATE EXECUTION

I, Jennifer Lawson, of the City of Fredericton, in the County of York and Province of New Brunswick, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the City Clerk of the City of Fredericton, one of the parties named in the foregoing instrument and as such I have personal knowledge of the matters herein deposed to.
2. The seal affixed to the foregoing instrument purporting to be the seal of the City of Fredericton is the Corporate Seal of the City of Fredericton and was so affixed by order of the City Council.
3. The signature "Kate Rogers" subscribed to the foregoing instrument is the signature of Kate Rogers, the Mayor of the City of Fredericton, and the signature "Jennifer Lawson" subscribed thereto is my signature.
4. The Mayor and City Clerk are the officers of the City of Fredericton duly authorized to execute the foregoing instrument.

SWORN TO BEFORE ME at the)
City of Fredericton, in the County)
of York and Province of New)
Brunswick, this ____ day of)
August, 2023.)

A Commissioner of Oaths)
Being a Solicitor)

Jennifer Lawson

PROVINCE OF NEW BRUNSWICK

COUNTY OF YORK

AFFIDAVIT OF CORPORATE EXECUTION

I, Phillip Curley, of the City of Fredericton, in the County of York and Province of New Brunswick, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the Chief Executive Officer of HotSpot Parking Inc., a duly incorporated company under the laws of the Province of New Brunswick, and as such have personal knowledge of the matters and things herein disposed to and have the authority to make this affidavit on behalf of the Corporation.

1. HotSpot Parking Inc. is one of the parties named in the foregoing instrument and as such I have personal knowledge of the matters herein deposed to.

3. That the Corporation has no corporate seal.

4. The signature of "Deepak Darda" subscribed to the foregoing instrument is the signature of Deepak Darda, Global Director, Innovation and the signature of "Philip Curley" subscribed thereto is my signature.

5. The Chief Executive Officer is the officer of HotSpot Parking Inc. duly authorized to execute the foregoing instrument.

SWORN TO BEFORE ME at the)
City of Fredericton, in the County)
of York and Province of New)
Brunswick, this ___ day of)
_____, 2023.)
)
)
)
_____)
)
A Commissioner of Oaths)
Being a Solicitor)

Phillip Curley

PROVINCE OF NEW BRUNSWICK

COUNTY OF YORK

AFFIDAVIT OF CORPORATE EXECUTION

I, _____, of the City of Fredericton and the County of York and Province of New Brunswick, **MAKE OATH AND SAY AS FOLLOWS:**

1. That I am the President of The Students' Union of St. Thomas University Inc. (the "Corporation"), a duly incorporated company under the laws of the Province of New Brunswick and as such have personal knowledge of the matters and things herein deposed to and have authority to make this affidavit on behalf of the Corporation.
2. That the President, _____, of the Corporation is the authorized signing officer to execute the annexed instrument (the "instrument ") in the name and on behalf of the Corporation.
3. That the signature " _____ " subscribed to the foregoing instrument is the signature of " _____ " this deponent, as the President of the Corporation.
4. That the seal affixed to the foregoing instrument is the corporate seal of the Corporation and was so affixed by order of the Board of Directors of the Corporation for the purpose of execution of the instrument.
5. That the instrument was so executed by the Corporation on the ___ day of August, 2023, as and for its act and deed for the uses and purposes therein expressed and contained.

SWORN TO BEFORE ME at)
the City of Fredericton, in the)
County of York and Province of)
New Brunswick, this ___ day of)
August, 2023.)
)
)
_____)
)
A Commissioner of Oaths)

PROVINCE OF NEW BRUNSWICK

COUNTY OF YORK

AFFIDAVIT OF CORPORATE EXECUTION

I, Dr. M. Nauman Farooqi, of the City of Fredericton, County of York and Province of New Brunswick, **MAKE OATH AND SAY AS FOLLOWS:**

1. That I am the President of St. Thomas University (the "Corporation"), a duly incorporated company under the laws of the Province of New Brunswick and as such have personal knowledge of the matters and things herein deposed to and have authority to make this affidavit on behalf of the Corporation.
2. That the President, Dr. M. Nauman Farooqi, of the Corporation is the authorized signing officer to execute the annexed instrument (the "instrument") in the name and on behalf of the Corporation.
3. That the signature of "Dr. M. Nauman Farooqi" subscribed to the foregoing instrument is signature of "Dr. M. Nauman Farooqi", this deponent, as the President of the Corporation.
4. That the seal affixed to the foregoing instrument is the corporate seal of the Corporation and was so affixed by order of the Board of Directors of the Corporation for the purposes of execution of the instrument.
5. That the instrument was so executed by the Corporation on the ___ day of August, 2023, as and for its act and deed for the uses and purposes therein expressed and contained.

SWORN TO BEFORE ME at)
the City of Fredericton, in the)
County of York and Province of)
New Brunswick, this ___ day of)
August, 2023.)
)
)
_____)
A Commissioner of Oaths)
)

Dr. M. Nauman Farooqi