

Service Agreement

THIS SERVICE AGREEMENT made as of and from April ____, 2021.

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 77 Westmorland Street, 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, 2019 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, 2021 and expiring on August 31, 2023 (the “Term”).

2.2 In the event that, pursuant to the ongoing mitigation of Covid-19, the University fully or partially restricts attendance on the campus and offers alternate off-campus methods of learning to its students prior to the September 1 of either academic year commencing, 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 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 in 2021, there will be three (3) academic years covered under this Agreement being September 1, 2021 to August 31, 2022, September 1, 2022 to August 31, 2023 and September 1, 2023 to August 31, 2024.
- 2.4.1 In the event this Agreement is extended pursuant to Article 2.2 herein in 2022, there will be two (2) academic years for the remainder of the Agreement being September 1, 2022 to August 31, 2023 and September 1, 2023 to August 31, 2024.
- 2.4.2 In the event this Agreement is extended pursuant to Article 2.2 herein for both the 2021 and 2022 academic years, there will be one (1) academic year remaining in this Agreement, being September 1, 2023 to August 31, 2024.
- 2.5 In the event this Agreement is extended pursuant to Article 2.2 herein, this Agreement will expire on August 31, 2024.
- 2.6 In the event that this Agreement is extended pursuant to Article 2.4 herein, Full-time Students and Part-time Students attending STU will have a choice to opt-in to the UBPP for the September 1, 2021 to August 31, 2022 academic year only.
- 2.6.1 In the event this Agreement is extended pursuant to Article 2.4.1 herein, Full-time Students and Part-time Students attending STU will have a choice to opt-in to the UBPP for the September 1, 2022 to August 31, 2023 academic year only.
- 2.6.2 In the event this Agreement is extended pursuant to Article 2.4.2 herein, Full-time Students and Part-time Students will have a choice to opt-in the UBPP in the September 1, 2021 to August 31, 2022 and the September 1, 2022 to August 31, 2023 academic years only. For greater clarity, there will not be an opt-in ability for Full-time Students in the September 1, 2023 to August 31, 2024 academic year.

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 messaging will be provided to the City, the University and the Students' Union for review, with final messaging in electronic format to be provided to the University and the Students' Union for electronic distribution by no later than August 15 of the relevant academic year.
- 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 ensure the Digital UPass is designed in such a manner so as to not require real-time internet or data connectivity with the exception of during annual Digital UPass registration for which wifi can be utilized by Full-time Students and Part-time Students without such data connectivity.
- 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 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 registered for the Digital UPass as per the UBPP Agreements between the City and the University and the City and the Students' Union.
- 8.2 In the event this Agreement is extended pursuant to Article 2.2 herein, HotSpot shall charge the City \$1.00 per month pursuant to the terms and condition set out in Article 8.1 herein until August 31, 2024.

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 two Million (\$2,000,000.00) CAD per occurrence;

(b) an errors and omissions liability insurance policy of no less than Two Million (\$2,000,000.00) 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 Two Million (\$2,000,000.00) 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: Meredith Gilbert, Manager of
Transit and Parking

By email: meredith.gilbert@fredericton.ca

To the University:

St. Thomas University

51 Dineen Drive
Fredericton, New Brunswick
E3B 5G3
Attention: Dawn Russell, President

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: president@stu.ca

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 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.
- 17.2 Parties agree to treat all information (including client 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.
- 17.3 Parties shall agree to comply with all applicable privacy and data protection statutes, rules, or regulations including but not limited to the *Right to Information and Protection of Privacy Act* (New Brunswick) 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.

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 or 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 INTENTIONALLY LEFT 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**

)
)
)
)
) _____
) Michael G. O'Brien
) Mayor

)
)
) _____
) Jennifer Lawson Murray
) City Clerk

) **HOTSPOT PARKING INC.**

)
) _____
) Phillip Curley
) Chief Executive Officer

) **ST. THOMAS UNIVERSITY**

)
) _____
) Dawn A. Russell
) President and Vice Chancellor

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

) _____
)
) President

PROVINCE OF NEW BRUNSWICK

COUNTY OF YORK

AFFIDAVIT OF CORPORATE EXECUTION

I, Jennifer Lawson Murray, 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 "Michael G. O'Brien" subscribed to the foregoing instrument is the signature of Michael G. O'Brien, the Mayor of the City of Fredericton, and the signature "Jennifer Lawson Murray" 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)
April, 2021.)

_____)
A Commissioner of Oaths)
Being a Solicitor)

_____)
Jennifer Lawson Murray

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.
2. 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 "Phillip Curley" subscribed to the foregoing instrument is the signature of Phillip Curley, the President of HotSPot Parking Inc., and the signature "Phillip 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)
_____, 2021.)
)
)
)
_____)
)
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 April, 2021, 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)
April, 2021.)
)
)
_____)
A Commissioner of Oaths)
)

PROVINCE OF NEW BRUNSWICK

COUNTY OF YORK

AFFIDAVIT OF CORPORATE EXECUTION

I, Dawn Russell, 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 and Vice-Chancellor 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, Dawn Russell, 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 "Dawn Russell" subscribed to the foregoing instrument is signature of "Dawn Russell", 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 April, 2021, 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)
April, 2021.)
)
)
_____)
A Commissioner of Oaths)
)

Dawn Russell