

University of Waterloo UPass Agreement

THIS AGREEMENT dated as of this 28 May, 2020

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Owner and operator of Grand River Transit ("GRT")

(hereinafter referred to as the "Region")

- and -

WATERLOO UNDERGRADUATE STUDENT ASSOCIATION, *operated by the* FEDERATION OF STUDENTS, UNIVERSITY OF WATERLOO

(hereinafter referred to as the "Federation")

WHEREAS the Federation and the Region wish to renew the mutually beneficial Universal Transit Pass (UPass) Program;

AND 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 13 May, 2020;

AND WHEREAS this Agreement was administered according to relevant policies and by-laws of the Federation, with the renewal of the Universal Transit Pass (UPass) Program being approved by the Students' Council of the Federation on 9 February, 2020 and, in accordance therewith, approved by the Board of Directors of the Federation on 22 April, 2020.

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

"Accommodated Student" means a student whose inclusion in the UPass program has been maintained because they meet the criteria outlined in **Appendix "A"** to this Agreement, as assessed by the Federation;

"Agreement" means this UPass Agreement between the Region and the Federation;

"Base Fee" means the fee for one (1) UPass per Eligible Student per School Term, charged by the Region;

"Confidential Information" means the provisions of this Agreement and any information provided or disclosed by the Region to the Federation, or the Federation to the Region, in furtherance of this Agreement, including but not limited to student identification numbers or 'personal information', as that term is defined in the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c M.56, as amended ("**MFIPPA**"), of all Eligible Students;

"Co-op Student" means a student currently engaged in a co-operative work term;

"Eligible Student" means all, Full-Time Students, Co-op Students, Off-Term Students and Accommodated Students;

"Full-Time Distance Education Student" means an undergraduate student (as that term is defined by the UW Undergraduate Calendar, as amended from time to time), 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" means Grand River Transit which is owned and operated by the 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 or Part-Time Student in the previous School Term and who has shown an intention to register as a Full-Time or Part-Time student in the subsequent School Term;

"Region" means The Regional Municipality of Waterloo and includes GRT;

"School Term" means 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 1st of a given year to August 31st of the following year;

"UPass" means a valid University of Waterloo 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 a working group consisting of representatives of:

- (a) the Region;

- (b) the Wilfrid Laurier University Students' Union;
- (c) the Wilfrid Laurier University Graduate Students' Association Inc.;
- (d) the Federation;
- (e) the Graduate Student Association - University of Waterloo;
- (f) the English Language Institute at Renison University College; and,
- (g) the 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;

"UW" means the University of Waterloo; and,

"WatCard" means a UW-issued student electronic identification card or other card as approved by the Federation and GRT.

Terms defined by the UW Undergraduate Calendar, as amended from time to time, shall be understood to apply to this Agreement, unless otherwise determined by both Parties.

PART II — FEES AND FEE CHANGES

Base Fee

The Base Fee commencing September 1, 2020 and September 1, 2021 shall be \$105.50 and \$113.30 per Eligible Student per applicable School Term, respectively. Thereafter, the Base Fee will increase by 3.0% effective September 1st of each subsequent School Year.

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

Effective Date	Base Fee (assuming no indexing)	Base Fee (assuming maximum annual indexing)
01-Sep-2020	\$105.50	\$105.50
01-Sep-2021	\$113.30	\$113.30
01-Sep-2022	\$116.70	\$118.97
01-Sep-2023	\$120.20	\$124.91

01-Sep-2024	\$123.81	\$131.16
01-Sep-2025	\$127.52	\$137.72

It is agreed that the Base Fee, in addition to any agreed upon inflationary adjustment, shall be payable to the Region by the Federation in accordance with Part VII of this Agreement.

Indexing to Inflation

When reasonable, GRT may request of the Federation the indexing of the Base Fee to account for inflation in excess of the foregoing rate of increase, which the Federation shall not unreasonably refuse. Normally, inflationary adjustments used will be determined based on the all-items Consumer Price Index (CPI) for Ontario as determined by Statistics Canada, and shall not exceed 2.0%. For the utmost certainty, no indexing shall occur before the 2022 School Year.

Review of Base Fee

The parties agree to collectively review the Base Fee within three (3) years of the commencement of this Agreement, following a planned review of GRT fare policy that will recommend a UPass target price, as presented in the GRT Business Plan (the "**UPass Target Price**"). The Federation shall be consulted during development of the aforementioned GRT fare policy.

In addition, following the initial review of the Base Fee within three (3) years of the commencement of this Agreement, the parties agree to meet to review the Base Fee, at a minimum, once every three (3) years thereafter during the term of this Agreement.

UPass Fee

An administrative component of the UPass Fee may be implemented by the Federation, with notice to GRT of the same. The Federation will submit the UPass Fee to the UW Board of Governors for approval as part of the undergraduate fee schedule no later than May 15th in each School Year.

It is acknowledged that the Base Fee per Eligible Student is not necessarily equal to the UPass Fee. The Federation shall endeavour to make students aware of any differences between the Base Fee and the UPass Fee.

PART III - IDENTIFICATION

Unlimited Ridership Privileges

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.

WatCard

The parties agree that the WatCard shall be the primary method of identifying students eligible for the UPass program, and that the WatCard shall be validated electronically by the Region's fare equipment.

The parties will work together to ensure that the Region's fare system maintains a current list of WatCards held by Eligible Students. The parties agree that changes to WatCard eligibility may take up to forty-eight (48) business hours to be reflected by the fare system.

Any proposed changes to the identification and validation systems will require the mutual agreement of both parties hereto.

PART IV — ELIGIBILITY

Automatic UPass for Each School Term for All Eligible Students

In each School Term, all Eligible Students will be charged for, and receive automatically, a UPass as part of their ancillary Federation 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 (1) School Term.

The first School Term to which this Agreement shall apply shall be the Fall Term of 2020.

PART VI — SERVICE INTERRUPTION

Reimbursement to Federation

In the event of a period of sustained interruption of GRT Service, whether in full or partially so as to affect a reasonable proportion of Eligible Students, exceeding three (3) 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.

Timing of Reimbursement to Federation

A reimbursement will be paid by the Region to the Federation within thirty (30) days of the resumption of service.

PART VII — PAYMENT SCHEDULE

Payment Due Date

Payment of all Base Fees owing together with a detailed reconciliation in accordance with Part VIII of this Agreement shall be made to the Region by the Federation on the first day of the last month of each School Term (the “**Payment Due Date**”).

Interest on Late Payment

After four (4) months from the 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).

Region’s Right to Audit

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

The Region acknowledges that all books, records and accounts of the Federation pertaining to the Base Fee constitute Confidential Information.

PART VIII — RECONCILIATION OF BASE FEE AND UPASS FEES

Reconciliation

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

Information in Reconciliation

It is expected that this reconciliation will include:

- (a) the total number of students registered at UW;
- (b) the total number of Eligible Students;
- (c) the Base Fees and UPass Fees collected;
- (d) the number of refunds given per student category as outlined in Part IX herein; and
- (e) such other information as is reasonably necessary to reconcile remittance and assessments.

PART IX — REFUNDS

Students Eligible for Refunds by Category

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 full refund of their UPass Fee for a given School Term from the Federation:

- (a) UW students who retain a valid Canadian National Institute for the Blind (“CNIB”) registration during a given School Term;
- (b) UW students who pay their fees to UW, but are taking a majority of their academic courses at an out-of-region (outside Waterloo Region) University in the same School Term as they are charged for the UPass;
- (c) UW students who hold a valid Accessible Parking Permit issued by the Ministry of Transportation of Ontario, and are registered with UW Parking Services and the Office of Persons with Disabilities at the beginning of a given School Term;
- (d) UW students who pay their fees to UW, but are considered on professional or academic placement outside the Waterloo Region as part of their degree, which is not considered part of co-operative education; and
- (e) other exceptional refunds as may, from time to time, be approved by both parties.

The parties agree that the UPass Working Group will review the number of students who fall within category (c), above, as part of its administration of the UPass program and that this category (c) may be amended from time to time as mutually agreed to by the parties.

The UPass Working Group may, from time to time, propose additional students who should be eligible to receive a refund of the UPass Fee. Any and all amendments in that regard must be agreed to in writing by both parties prior to coming into effect.

Applications for Refunds

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

Refund Records

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.

PART X — CHANGES TO ENROLLMENT STATUS

Before Drop Deadline

Eligible Students who drop out of UW as of the Fall, Winter or Spring Drop Deadline per the UW Undergraduate Calendar shall receive a full refund of the UPass Fee.

After Drop Deadline

Eligible Students who drop out of UW or change their enrolment status at UW after the Drop Deadline per the UW Undergraduate Calendar shall not be eligible for a refund of the UPass Fee. In such cases, Eligible Students who are not refunded shall continue to have access to UPass in accordance with the provisions of this Agreement.

PART XI — RIDERSHIP DATA

Provision of Ridership Data to the Federation

GRT shall make available, at least once per School Term and upon the request by the Federation, aggregate ridership data of Eligible Students' use of the UPass program, in such a manner as may reasonably be accommodated by GRT and as the Federation may reasonably require.

PART XII — 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.

Attempted fraudulent use of the UPass may result in penalties to students and/or prosecution under applicable legislation.

PART XIII — TERM, RENEWAL, AND TERMINATION

Term of Agreement

This Agreement shall commence on September 1, 2020, and shall remain in effect for a period of five (5) years until August 31, 2025 (the "Term").

Automatic Renewal of Agreement

This Agreement shall be automatically renewed, on the same terms and conditions as outlined herein, for additional five (5) year periods following an agreement by both parties on the Base Fee for any renewal term, unless a party notifies the other party in writing no less than one hundred and eighty (180) days prior to the end of the then current Term of its desire to terminate the Agreement.

Termination

Either party may terminate this Agreement upon one hundred and eighty (180) days written notice to the other party.

PART XIV — 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 XV – ARBITRATION

If, at any time, a dispute arises between the Region and the Federation under this Agreement, such dispute shall upon notice, by one party to the other 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, 1991*, 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 XVI – NOTICE OF CLOSURE OF GRT SERVICES

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, labour disruption.

PART XVII – ASSUMPTION OF FULL RESPONSIBILITY

Each party agrees to assume full responsibility for any and all liability and/or claims which may arise as a result of, or in any way connected with, the conduct, actions, errors or omissions of its servants, agents or employees acting in the execution or intended execution of this Agreement directly or indirectly, and in the performance of duties associated therewith.

PART XVIII – INDEMNITY AND INSURANCE

Indemnity

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 party 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.

Insurance

Each party confirms that they have and will maintain sufficient insurance for claims arising from the activities outlined within this Agreement to respond to any claims, demands or actions commenced or arising out of such.

It shall be the sole responsibility of each party to determine what additional insurance coverage, if any, is necessary and advisable for its own protection and/or to fulfil its obligations under this Agreement. Any such additional insurance shall be obtained and maintained at the sole cost of each party. This may include but not limited to, Property, Business Interruption, Commercial General Liability, Cyber, Data Breach Coverage, Errors & Omissions, Communication and Media Liability, Network and Information Security Liability, Expense Reimbursement Coverage, Equipment Breakdown, or any other exposure type coverage.

PART XVIII – TAXES

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.

PART XIX - 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: Waterloo Undergraduate Student Association (WUSA)
University of Waterloo
Student Life Centre, Room 1116
200 University Avenue West
Waterloo, ON N2L 3G1
Fax# (519) 725-0992

Attention: Vice President, Operations & Finance

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 XX — CONFIDENTIAL INFORMATION

Application of Laws

The Federation acknowledges and agrees that the Region is subject to MFIPPA.

The Region and The Federation both acknowledge and agree that they are bound by all applicable federal and provincial privacy laws, regarding the Confidential Information the parties may obtain from one another pursuant to the provisions of this Agreement. Each party will only collect, use and disclose the Personal Information for purposes that are in compliance with all applicable federal and provincial privacy laws.

Disclosure of Confidential Information

Each of the parties agrees to disclose to the other all such Personal Information as may be required to facilitate and complete the services pursuant to the terms of this Agreement.

Personal Information No Longer Required

Each party will immediately return or destroy any Personal Information collected pursuant to this Agreement in its possession once it is no longer needed.

Security Measures

Each party will ensure that Personal Information is protected by commercially reasonable procedural and technical security measures.

Unauthorized Access

Each party will immediately notify the other party if any Personal Information in its possession has been subject to unauthorized access.

Information Provided

Any information disclosed by the Region or the Federation to the other in furtherance of this Agreement shall be regarded as confidential. Such information may only be disclosed to individuals within the Federation and the Region who require access and have a “need to know” in order to carry out the Services under this Agreement, and may only be disclosed to a third

party upon the written consent of the other party; provided, however, that the obligation to keep information confidential shall not apply to information which:

- (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.

Survival

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

Injunctive Relief

Each party agrees that any violation of this Part XX 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.

PART XXI – GENERAL PROVISIONS

Regular Reviews

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

Marketing of Travel Options

The parties agree to work together to identify, communicate and market various travel options to Eligible Students including the various GRT Services and encourage the use of the GRT 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.

Contact Person

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.

Entire Agreement

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.

Assignment

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

Electronic Signing & Counterparts

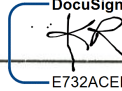
This Agreement may be executed in counterparts in writing or by electronic signature and delivered by mail, facsimile or other electronic means, including in Portable Document Format (PDF), no one copy of which need be executed by all of the parties, and all such counterparts together shall constitute one agreement and shall be a valid and binding agreement among the parties hereto as of the date first above written.

[The remainder of this page has been intentionally left blank.]

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

THE REGIONAL MUNICIPALITY OF WATERLOO

DocuSigned by:



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Name: Karen Redman

Title: Regional Char

DocuSigned by:



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Name: Kris Fletcher

Title: Regional Clerk

I/We have authority to bind the Corporation [By-Law 20-023]

FEDERATION OF STUDENTS, UNIVERSITY OF WATERLOO



Name: Seneca Jackson Velling

Title: Vice President, Operations & Finance



Name: Michael Beauchemin

Title: President

I/We have authority to bind the Corporation.

Appendix "A"

Accommodated Students

Accommodation Criteria

The parties agree that students meeting the criteria outlined below, as assessed by the Federation, may be included in the UPass program or have their inclusion in the program maintained:

- (b) An undergraduate student that is either in studies, a co-operative work term, or is an Off-Term Student immediately following a paid term who is in a course of study which has them returning to UW the following School Term;
- (c) An elected Student Councillor, Director, or Officer of the Federation, or other student representative determined in accordance with the Policies & Procedures of the Federation who would otherwise be eligible for the UPass had they not adjusted their status to take on their current role;
- (d) A Full-Time Student who is undertaking a reduced course schedule as a result of an accommodation as defined in UW Undergraduate Calendar or as otherwise defined by the University of Waterloo; and,
- (e) A first year student beginning their degree during the Fall School Term for an initial use period not exceeding five (5) days during which their UPasses will be valid prior to the start of that Fall School Term.

Accommodation Process

The Federation shall assess whether a student meets the above-noted criteria for an Accommodated Student based on the following process:

- (a) A student shall request admission as an Accommodated Student by submitting an application in-person at the Federation's offices (the "**Admission Application**");
- (b) A student's Admission Application will describe how they meet the accommodation criteria outlined in this Appendix, and the Federation will determine whether the student is eligible under the terms of this Agreement; and
- (c) If a student is eligible to be an Accommodated Student based on the Admission Application, a declaration that identifies the student, the assessor, and the reason for eligibility, is completed and signed at point-of-sale by both the assessor and student (the "**Declaration**").
- (d) The Region shall make available to the Federation preloaded fare cards, for distribution to Accommodated Students at the time the WatCard is activated for the UPass program

by the Federation. The precise nature of the preloaded cards and the price to be paid to the Region by the Federation for the preloaded fare cards will be mutually determined each School Year. The Federation will track the distribution of preloaded fare cards and provide a reconciliation of their distribution each School Term, in accordance with Part VIII of this Agreement.

Issuance of UPass to Accommodated Students

The parties agree to the following process regarding issuing a UPass to an Accommodated Student:

- (a) The Federation will collect the UPass Fee from the Accommodated Student;
- (b) The Accommodated Student's WatCard will then be activated for the UPass program by the Federation;
- (c) Upon request by the Accommodated Student, the Federation may distribute one preloaded fare card to the Accommodated Student;
- (d) At the end of each School Term, together with the final reconciliation payment as specified in this Agreement in Part VII, the Federation shall provide the Region with:
 - (i) A reconciliation of the number of Accommodated Students admitted to the UPass program under the terms of this Agreement;
 - (ii) A reconciliation of the number of preloaded fare cards purchased by the Federation and distributed to Accommodated Students
 - (iii) The total UPass Fees and Base Fees collected from Accommodated Students, which will be the same as the number of Accommodated Students times the current term applicable fee; and
 - (iv) Any Declarations for its review upon written request from the Region.
- (d) The Region shall reserve the right to deny additional ridership for Accommodated Students for over 250 Accommodated Students per School Term of UW, with the exception of accommodations made for reasons of accessibility; and
- (e) The Federation will maintain records of individual assessments for Admission Applications for one (1) year after which the Admission Application was either denied or approved, and after such time the Federation shall ensure that such information is securely destroyed. Such records shall also be maintained in accordance with Part XX - Confidential Information of this Agreement.