

Interim Operational Agreement

THIS agreement is effective as of the 25th day of December 2018 (the “**Effective Date**”)
BETWEEN:

University of Ottawa
(the “**University**”)

-and-

Student Federation of the University of Ottawa Inc.
(“**SFUO**”)

WHEREAS the University is an Ontario post-secondary educational institution established under the *University of Ottawa Act, 1965*;

AND WHEREAS the SFUO is a not-for-profit corporation duly incorporated under the Ontario *Corporations Act, 1990* whose members consist of the undergraduate students registered at the University (the “**Members**”);

AND WHEREAS the SFUO has represented the Members, promoted the interests of the Members, and provided goods and services and programming activities to the Members since 1969;

AND WHEREAS on July 8, 2012, the parties entered into an agreement whereby the University agreed to recognize the SFUO as the exclusive student association representing undergraduate students registered at the University and further agreed, to charge and to collect from undergraduate students, on behalf of the SFUO, the SFUO membership fee and the health and dental insurance premiums for the student health and dental insurance plan obtained by the SFUO to cover undergraduate students (the “**2012 Agreement**”);

AND WHEREAS on September 24, 2018, the University sent a written notice of termination of the 2012 Agreement to the SFUO with an effective date of termination of December 24, 2018;

AND WHEREAS as of December 24, 2018, the University will no longer recognize the SFUO as the exclusive student association representing undergraduate students registered at the University and will no longer charge and collect, on behalf of SFUO, the health and dental insurance premiums;

AND WHEREAS the University will arrange a student referendum to be held in early 2019 in order to enable the SFUO and any other interested undergraduate student group to present their candidacy and campaign to become the student association to be potentially recognized by the University as the student association representing undergraduate students registered at the University;

AND WHEREAS as of December 24, 2018 and pending the outcome of the said student referendum, the University wishes to ensure the smoothest possible continuation of student services after December 24, 2018 and for the Winter 2019 term;

AND WHEREAS the SFUO and the University are desirous to establish this Agreement in order to facilitate the continuation of the delivery of the SFUO's services, programming and businesses to the undergraduate students of the University;

NOW THEREFORE THIS AGREEMENT WITNESSES that the parties agree as follows:

ARTICLE I TERM

1.01 The term of this Agreement shall be from the Effective Date, December 25, 2018, until April 30, 2019 (the "**Term**"), unless terminated prior to its expiry in accordance with Article V of this Agreement.

ARTICLE II LEVIES

2.01 **Student Levies.** The SFUO represents and warrants that it has held lawful referenda in accordance with its constitution and by-laws to obtain the required student body support for the establishment of the student levies for the services described at Section 1 of Schedule A of this Agreement (the "**Levies**").

2.02 **Collection of Levies for the 2019 Winter term.** The University agrees to collect, on behalf of the SFUO, the Levies for the 2019 Winter term described at Section 1 of Schedule A of this Agreement.

2.03 **Distribution of the Levies Collected.** The University and SFUO agree to the protocol set out in section 2 of Schedule A attached to this Agreement for the distribution by the University to the SFUO of the Winter 2019 Levies regardless of whether they were charged and collected by the University for the SFUO before or after December 24, 2018.

2.04 **Use of the Levies.** The SFUO warrants and represents that it shall use the Levies only for the purposes for which they were charged to and collected from the undergraduate students as set out in section 1 of Schedule A attached to this Agreement and in accordance with the referenda referred to in Section 2.01 of this Agreement. The SFUO shall provide the University with written proof or with such assurances as the University may require to demonstrate that it is using the Levies to fully fund student services and student clubs. The University shall not be held responsible by the SFUO for the SFUO's use or misuse of the Levies or for any failure by the SFUO to pay amounts owed by it.

2.06 **Set-off.** The Services identified in Section 1 of Schedule A attached to this Agreement as Counselling Services, Career Services and Legal Aid Clinic are services provided by the University and for which the University receives a portion of the Levies from the SFUO. The SFUO hereby agrees that the University shall have the right to satisfy the amounts from time to time owing by SFUO to the University for the Services identified in Schedule A as Counselling Services, Career Services and Legal Aid by way of set-off against the Levies collected by the University.

ARTICLE III CONTINUATION OF SERVICES

3.01 **Continuation of Services.** The SFUO shall continue to provide the services, businesses and programs as set out in Schedule A attached to this Agreement (the “**Services**”) for the benefit of undergraduate students registered at the University (and for no other purpose) at the same level of service and in the same locations as they were provided by SFUO prior to the Effective Date.

3.02 **SFUO Covenants, Representations and Warranties.** During the continuation of its Services, the SFUO covenants, represents and warrants the following:

- (a) the SFUO shall act upon establishing and maintaining transparent governance practices, responsible and accountable financial management of the Levies and a healthy and safe workplace; and
- (b) the SFUO shall provide the University with its audited financial statements for the 2017-2018 fiscal year and audit findings report, when completed, as well as the financial disclosure information for the Winter 2019 Levies collected after December 24, 2018 in accordance with section 2 of Schedule A of this Agreement; and

3.03 The SFUO further covenants, represents and warrants that:

- (a) since the allegations raised in July, 2018 the SFUO has no knowledge of and there has been no allegation of fraud, bribery, extortion, collusion, bid-rigging, the offering, promising or giving, as well as demanding or accepting, any undue advantage, whether directly or indirectly, in order to obtain, retain or direct business or to secure any other improper advantage or benefit to SFUO’ its directors, officers or staff;
- (b) all Levies have been used to finance the activities for which they were collected; and
- (c) since the allegations raised in July, 2018 the SFUO has no knowledge of any facts that would lead to a conflict of interest or to misconduct.

3.04 **Dissolution.** In the event the SFUO elects to dissolve during or after the Term, the SFUO shall transfer, through a transfer agreement, the assets, services and businesses of the SFUO to a similar organization, in accordance with their Letters Patent and the Ontario *Corporations Act, 1990*.

3.05 **Insurance.** The SFUO assumes responsibility for ensuring that it is sufficiently insured for its operations and activities contemplated by this Agreement. Prior to the signature of this Agreement by the parties, the SFUO shall provide the University with a Certificate of Insurance as proof that the SFUO has obtained and will maintain commercial general liability and property insurance of not less than \$5,000,000 per occurrence for bodily injury, death and damage to property including loss of use thereof and to cover all activities, services and events of the SFUO. Such insurance shall name the University as an additional insured party and shall contain an endorsement to provide additional insured with thirty (30) days prior written notice of cancellation.

ARTICLE IV TERMINATION

4.01 Termination for an Event of Default. A party may terminate this Agreement in accordance with the terms of this section 4.01 upon the occurrence of a breach ("**Event of Default**") by the other party. A party will be in an Event of Default under this Agreement upon the occurrence of any of the following:

- (a) The failure by a party to perform or comply with any term or provision of this Agreement;
- (b) The commencement by or against a party of any proceeding under the bankruptcy laws of any jurisdiction, the appointment of a receiver for a party, any assignment of the benefit of the creditors of a party, insolvency of a party, the levy, seizure, assignment or sale for or by any creditor or governmental agency of or on a substantial part of a party's property, or the winding-up, liquidation or dissolution of a party; or
- (c) in the case of the SFUO, any act or omission of the SFUO that impairs the interests of the undergraduate students at the University or of the University. Without restricting the generality of the foregoing, each of the following shall be deemed to be such as an act or omission:
 - (i) the SFUO fails to meet or breaches any representation, warranty or covenant set out in Section 3.02 of this Agreement;
 - (ii) failure of the SFUO to use the Levies distributed to it by the University for the purpose of meeting its material contractual obligations to third parties and to its employees;
 - (iii) theft, embezzlement, fraud and defalcation or any criminal act by the SFUO, its directors, officers or staff towards for which the SFUO has not taken the appropriate steps to remedy;
 - (iv) violation by the SFUO of its own constitution, by-laws, regulations, rules, policies;
 - (v) gross negligence and managerial neglect on the part of the SFUO, as determine by any applicable court of law;
 - (vi) failure of the SFUO to function as a responsible organization duly serving the undergraduate students of the University.

4.02 Form of Notice. The party alleging that the other party is in an Event of Default shall without prejudice to any other rights or remedies it has, give the party in default written notice of such default in order for that party to remedy the default. Such notice shall identify in reasonable detail the events that the non-defaulting party believes have occurred and that constitute or evidence the Event of Default, the provisions that have not been performed or complied with, and the actions which, in the opinion of the non-defaulting party, would be required to fulfill the requirements of this Agreement and remedy the default.

4.03 **Coordinates for Notice.** A notice pursuant to Section 4.02 of this Agreement shall be given to the parties at the following addresses:

a) University of Ottawa
c/o Associate Vice-President, Student Life
85 University, Room 318A
Ottawa, ON K1N 6N5
Email: mguilbea@uottawa.ca

b) Student Federation of the University of Ottawa
c/o Vice-President Social and Vice-President External
07-85 University Private (University Centre)
Ottawa, ON K1N 8Z4
Email: vp.social@sfuo.ca and vp.external@sfuo.ca

4.04 **Remedy Period for an Event of Default.** Following the date of the receipt of the notice of an Event of Default given in accordance with section 4.03, the defaulting party shall have ten (10) business days in which to take the necessary steps to remedy the Event of Default described in the notice; except in the case where the notice of an Event of Default is given by the University to the SFUO for an Event of Default under Section 4.01 (b) or 4.01 (c) (iii), in which case this Agreement may be terminated immediately and the effective date of termination shall be as of the date of the University's notice.

4.05 **Termination for failure to cure an Event of Default.** If the defaulting party fails to cure the Event of Default within the remedy period set out in section 4.04 hereof, this Agreement may be terminated immediately by the party not in default by giving written notice to the other Party.

ARTICLE V GENERAL

5.01 **SFUO Representatives.** The SFUO representatives who have authority and who are responsible for the implementation of this Agreement and for sending to or receiving notices or other communications from the University in respect of or as required by this Agreement are as set out in section 4.04 (b) of this Agreement (the "**SFUO Representatives**").

5.02 **Compliance with the Law.** The SFUO and the University agree to comply with all applicable laws, by-laws, regulations and orders in accordance with the laws of Canada and the Province of Ontario.

5.03 **Assignment.** None of the parties may assign any right or delegate any obligation under this Agreement except with the prior written consent of the others, and any purported assignment or delegation without such consent shall be void. The merger or consolidation of a party, and any other event causing a substantial change in the ownership or control of a party, will be deemed an assignment and delegation that requires consent. Absent consent, the merger, consolidation of a party, or substantial change in ownership or control of a party will represent an Event of Default

5.04 **Governing Law.** This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada.

5.05 **Amendment and no Waiver.** This Agreement may not be modified or amended except by an instrument in writing signed by all of the parties. No waiver of any provisions of this Agreement shall be deemed or shall constitute a waiver of any provisions, whether similar or not. No waiver of any provisions of this Agreement shall be deemed or shall constitute a continuing waiver unless other expressly provided.

5.06 **Notices.** All notices required or permitted to be given hereunder shall be in writing and may be delivered personally, sent by email or by certified mail, to the address for the recipient set forth in section 4.04 of this Agreement, or at such other address as the recipient may hereafter designate by notice in the manner provided in this section. Notice shall be effective, if personally delivered, upon delivery; if sent by email, upon sending; and if sent by certified mail, on the fifth business day after sending.

5.07 **Entire Agreement.** This Agreement will include Schedule A attached hereto along with any other documents to be executed and delivered pursuant to the execution of the Agreement such that this Agreement and the accompanying Schedule constitute the entire agreement between the parties and supersedes all other prior agreements, understandings, negotiations and discussions, whether oral or written, between any of the parties.

5.08 **Controlling Provisions.** If there is any conflict or inconsistency between the terms and conditions set forth in the main body of this Agreement and Schedule A attached hereto, the provisions of the main body of this Agreement shall control with respect to the rights and obligations of the parties.

5.09 **Language.** The parties agree that this Agreement be drafted in the English language only.

IN WITNESS WHEREOF the parties have executed this Agreement on the date(s) set out below.

UNIVERSITY OF OTTAWA

David Graham
Provost and Vice-President Academic Affairs

Date

Annick Bergeron
Secretary-General

Date

STUDENT FEDERATION OF THE UNIVERSITY OF OTTAWA INC.

Name:
Title:

Date

Name
Title:

Date

SCHEDULE “A” to the Agreement between the University of Ottawa and the Student Federation of the University of Ottawa, effective December 25, 2018 (the “Agreement”)

DESCRIPTION OF LEVIES AND SERVICES

1. Description of Winter 2019 Levies and Services:

Referendum Fee	Full-time	Part-time
Agora Bookstore	\$11.12	\$5.57
Centre for Students with Disabilities	\$1.28	\$0.63
Food Bank	\$1.16	\$0.59
Student Appeal Centre	\$2.52	\$1.26
Bilingualism Centre	\$1.20	\$0.60
Pride Centre	\$1.42	\$0.69
Women's Resource Centre	\$1.18	\$0.59
Peer Help Centre	\$1.42	\$0.69
Multi-Faith Centre	\$1.25	\$0.65
CHUO FM	\$4.99	\$2.61
Legal Aid Clinic	\$3.28	\$1.85
Clubs	\$1.23	\$0.61
Refugee Student	\$3.88	\$3.88
SFUO	\$28.77	\$10.59
Accessibility Fund	\$1.28	\$0.63
Student Life Services General Fund	\$0.69	\$0.38
The Fulcrum	\$3.40	\$1.83
Ontario Public Interest Research Group (OPIRG)	\$4.02	\$4.02
International House	\$0.69	\$0.37
Zoom Productions	\$1.88	\$1.35
Foot Patrol	\$1.42	\$0.69
Centre for Equity and Human Rights	\$3.10	\$1.52
Racialized and Indigenous Student Experience Centre (RISE)	\$2.75	\$2.75
La Rotonde	\$3.40	\$1.83
Counselling Services	\$2.44	\$1.20

Career Services	\$1.89	\$0.92
Canadian Federation of Students	\$4.57	\$2.29
Canadian Federation of Students - Ontario	\$3.81	\$1.91
Sustainable Development Centre	\$2.33	\$1.16
Student Emergency Response Team	\$1.50	\$0.75
TOTAL	\$103.87	\$54.41
Health and dental insurance premiums for opt-in or newly enrolled students in the Winter 2019 term		
For undergraduate students (or their dependents) who opt-in during the Winter 2019 Term to the SFUO health and dental plan, the SFUO will charge and collect the health and dental insurance premium directly from the undergraduate student.		

2. Protocol for the distribution of Levies

A. SFUO payroll

- i) The SFUO Representative as referred to in section 4.04 (b) and section 5.01 of the Agreement forwards via email to University’s Associate Vice-President Student Life at mguilbea@uottawa.ca the summary SFUO payroll register, with written confirmation from SFUO for each payroll cycle of (1) the gross/net pay, (2) the payroll register is accurate and complete, (3) that use of the Levies received by the University for payment is consistent with the purpose for which the Levies were collected.
- ii) The Associate Vice-President, Student Life, the University’s Financial Resources shall process a payment to the SFUO bank account to cover the SFUO payroll by 5:00pm on the Tuesday following the receipt of the information at section 2.A i) above provided that the SFUO has submitted such information to the Associate Vice-President, Student Life by no later than 10:00 am on the Friday in the week preceding the stated deadline.
- iii) The SFUO Representative sends to the University’s Associate Vice-President, Student Life at mguilbea@uottawa.ca and to the Associate Vice-President, Financial Resources at vrafina@uottawa.ca a statement from the SFUO’s Scotiabank account indicating that the amount for the SFUO’s payroll has been withdrawn.

B. SFUO health and dental plan for students

- i) The SFUO Representative forwards the SFUO Insurer invoices on a monthly basis to the University’s Associate Vice-President, Student Life and confirms in writing that (1) the amount is justified, (2) the amount is due to the insurer, (3) that use of the Levies

received by the University for payment is consistent with the purpose for which the SFUO student health and dental fees were collected.

- ii) After review by the Associate Vice-President, Student Life, University's Financial Resources processes the relevant payments directly to SFUO Insurer. If the SFUO Insurer will not accept direct payments from the University, the University's Financial Resources will process a payment to the SFUO insurance bank account based on monthly invoices submitted by the SFUO Insurer.
- iii) In the event that the SFUO pays the SFUO Insurer directly, the SFUO Representative sends proof to the University's Associate Vice-President Student Life at mguilbea@uottawa.ca and to the Associate Vice-President, Financial Resources at vrafin@uottawa.ca that payment was made and received by the SFUO Insurer. Failure of the SFUO Representative to provide proof in 10 business days may result in withholding payment for the next SFUO Insurer invoice.

C. SFUO student clubs and third parties

- i) SFUO student clubs requiring payment of expenses from the SFUO submit their written request to the SFUO for approval.
- ii) Third parties requiring payment from SFUO submit their invoice or request for payment to the SFUO for approval.
- iii) The SFUO Representative forwards to the University's Associate Vice-President's Student Life at mguilbea@uottawa.ca a list of the payees and amounts due, together with a copy of each invoice and request for payment, and confirming in writing that each invoice /request for payment is (1) fully justified, (2) due to the payee, (3) that use of the Levies received by the University for payment is consistent with the purpose for which the Levies were collected.
- iv) The Associate Vice-President, Student Life, and the University's Financial Resources shall process a payment to the SFUO bank account to cover the amounts due by the SFUO within five (5) business days of receiving the information at section 2.C iii) above.
- v) The SFUO Representative processes payments to the payees.
- iv) The SFUO Representative sends a copy of the cheque or the electronic transfer of funds to the University's Associate Vice-President, Student Life at mguilbea@uottawa.ca and to the Associate Vice-President, Financial Resources at vrafin@uottawa.ca that all payments have been made and have been received by each of the payees. Failure of the SFUO Representative to provide proof in 10 business days will result in the University to withhold upcoming payments.

D. Confidentiality

- i) The SFUO and the University may provide to each other certain information pertaining to its respective employees, operations, programs, students, finances or other matters that is either non-public, confidential, private or sensitive in nature. All such information furnished to the other party, their accountants and their legal counsel, (hereinafter the

“Representative”) by or on behalf of the SFUO or the University and all analysis, compilations, data, studies, derivative works or other documents prepared by University or its Representative containing or based upon, in whole or in part, any such furnished information is herein referred to as the **“Confidential Information”**. Confidential Information includes, but is not limited to, information about identifiable individuals. This Agreement, in and of itself, is not considered by the parties to be Confidential Information and the parties may make a copy of the executed Agreement publically available. The University and the SFUO shall each make all reasonable, necessary and appropriate efforts to safeguard the Confidential Information from disclosure to anyone other than as permitted hereby or as permitted or required by law.

- ii) The University and the SFUO acknowledge that the Confidential Information is being furnished in furtherance of the distribution of the Levies and agrees to furnish the Confidential Information to its respective Representative, if applicable, only for the purpose of carrying out the distribution of the Levies. The Confidential Information will be kept confidential by the parties and will not, without the prior written consent of the other, be disclosed by the other party, in any manner whatsoever, in whole or in part, and will not be used by the other party for any purpose other than in connection with the distribution of the Levies.

E. Additional terms

- i) The SFUO Representative and the University’s Associate Vice-President, Student Life and Associate Vice-President, Financial Resources will meet on an as needed basis to review and address SFUO payments owing by it and that are to be paid from the Levies received by the University that are not outlined above.
- ii) If the SFUO cannot provide the appropriate confirmation, validation or documentation required or contemplated by Schedule A, the University will re-assess the above process and reserves the right to withhold the transfer of payments.
- iii) The University shall provide a reconciliation of the funds collected and not remitted to the SFUO on the last day of each month.