

**Trent Central Student Association
Second Meeting of the 2022 Summer Committee
Agenda - Tuesday, August 16th, 2022, at 12:00 pm (via Zoom)**

1. Call to Order

TIME: 12.01

2. Roll Call

Chair: Wendy Walker

Present: President Zoe Litow-Daye (she/they)

VP Aimee Anctil(she/her)

VP Holly Naraine(she/her)

VP Shay Surujnarain(she/they)

Commissioner Craig Stoddart (he/him)

Commissioner Angela Slader-Meadows (she/her)

Absent:

Alyssa Robinson

Harshit Jain

Association Staff:

Operations and Services Manager Tracy Milne (she/her)

3. Land Acknowledgement

Chair Walker reads the Associations land acknowledgement aloud "The Trent Central Student Association wishes to acknowledge that we are meeting today on the traditional territories of the Mississaugueeg Anishnaabeg people of Treaty 20 and the Williams Treaty, who have been taking care of this land since creation. As visitors to these lands, we would like to acknowledge the displacement and sacrifices of all Indigenous peoples who lived, learned and gathered here, much like we are today. Peterborough, or Nogojiwanong, as it was originally called, has become home to many, and we would like to recognize the contributions made by other First Nations, Metis and Inuit peoples to this community. We give further thanks to the people of Curve Lake First Nation and Hiawartha First Nations for welcoming us onto this beautiful land. While settler-colonialism is still very evident within the structure of our society and institutions, the TCSA is committed to furthering the work of a de-colonial student union and campus, in partnership with Indigenous university staff, students, and community groups."

4. Chairs Remarks

Chair Walker provides an update on the association's upcoming election period, set to start September 6th. Committee appointments will soon be shared with the board in preparation for the Fall semester. As well, Board Retreat was successful despite the low director attendance.

5. Approval of the Agenda

This motion sets the business of the meeting. Changes to the meeting's business are discussed here.

MOTION: Be it resolved that the agenda for the 16.08.2022 Summer Committee Meeting be approved.

MOVED: VP Naraine, seconded President Litow-Daye

Motion Carried

6. Approval of Minutes

MOTION: Be it resolved that the minutes from the 23.06.2022 meeting be approved with the necessary corrections.

MOVED: VP Surujnarain, seconded by Commissioner Stoddart

Motion Carried

7. Executive Updates

The executive team has compiled a Summer update report to summarize their work over the last four months. VP Naraine hosted Treetop Trekking in July, which was very successful and an event the association will likely continue. Racialized Student Therapist hiring is continuing as the previous candidate has withdrawn their application. The Wrapped and Ready program has expanded to include pregnancy tests. The One Stop Chop food pantry has not yet been launched but will be ready before September. This campaign is in collaboration with Trent Vegetable Gardens, Chartwells, and the Seasoned Spoon. Shades of Survivorship, in partnership with Consent at Trent, will be launching this September for racialized students who have experienced sexual violence.

VP Anctil has been working on their Campus Security Call to Action campaign. This includes sitting on hiring committees, reviewing training modulus for guards and having a direct line of communication with the campus safety team. Further campaigns and initiatives are planned for the fall when students return. The Queer Tea Party was hosted in June for pride month with VP Surujnarain. The sensory room in the Freedom Lounge has been adapted so it can also be used as a multi-faith space. They have also launched a new column in The Arthur to increase communication and visibility of the Association. Safety and Wellness Orientated Resource Directory (SWORD) campaign in collaboration with Trent International, which will help students report acts of discrimination and awareness of personal safety. This ties into their campaign for community anti-racism and researching student experiences with discrimination within the Peterborough community to hold the community and Trent accountable.

VP Surujnarain has been working on the Associations Orientation Week programming. They have also started building connections with the colleges and the cabinets. They are working on a campaign with Trent's Academic Advisors to make these appointments more accessible and to empower students to advocate for themselves. They are working on an academic guidebook for student leaders to assist with navigating Trent's academic policies and procedures. Planning for the club's Leadership Assembly has been finalized with the Association's Community Coordinator.

Zoe has been working with FPHL and TUNA on the September Orange Shirt Campaign; these

shirts are currently for sale in the TCSA office. FPHL is also assisting with the Indigenous Artisan Market in September; it will include a drum social with the Youth Drum Circle from Curve Lake. Discussions are continuing with Trent and Peterborough Transit for the proposed bus loop and transit terminal. The Association and convocation are not renewing their contract with Miranda Studios as it was heavily underutilized by students. There will be a campaign in September and October for the municipal election encouraging students to take part in their civic duty; this will include an advanced poll on campus and a debate with candidates. The Association is hiring Brand Ambassadors for the Fall. Consultation with Levy groups on an MOU has been wrapping up, with the final draft being sent to our lawyer for review.

MOTION: Be it resolved that the Summer 2022 Executive recap be accepted.

MOVED: Commissioner Slater-Meadows, seconded by VP Surujnarain

Motion Carried

8. Orientation Update

VP Surujnarain is completing last-minute purchases and contingency plans ahead of Orientation Week. Welcome Bags will be the Monday and includes an ice cream truck. The Meet and Greet with Security and the Bonfire with Trent Outdoors will be Tuesday. Wednesday will be Sexy Bingo, then Trap and Paint, and Thursday will be the downtown bus trip where students can receive a Boro gift card.

9. Transit Update

See Appendix 1

Operations Manager Milne provides an update on the Selwyn Link service. Last year the Association paid \$45,000 for all of its transit pass users to be able to access this service. There has been great uptake, with TCSA transit pass holders making up almost 60% of the ridership and positive responses from transit surveys. Selwyn has asked that the contribution go up by 10000 every year; this year would be \$55,000 and would increase every year until 2024, when the pilot project ends. A new agreement would be discussed if the service continues following the pilot project. Manager Milne asks for soft approval until a lawyer can review the agreement and we receive approval from the board.

VP Narain asks for clarification on the fee structure and what overall costs for transit would look like. Manager Milne explains that the Association spends upwards of \$2 million on Peterborough Transit for the year so the additional funding is minimal in comparison to our overall costs; it is also much lower than the amounts discussed pre-covid for the same service.

President Litow-Daye advocates in favour of the motion highlighting making transit accessible to our membership as Trent continues to expand.

MOTION: Be it resolved that the Association's current Selwyn transit contract be extended until 2024 with the proposed annual increases following review from the Association's legal counsel.

MOVED: VP Surujnarain, seconded VP Anctil

Motion Carried

10. Nimbus Tutoring App

Manager Milne explains that this is the Association's third year working with Nimbus, starting in 2020. With the launch during COVID it was assumed there would be high usage to accommodate distance learning; however, this was not the case as the level of engagement for all services was underutilized. Last year with hybrid learning and an increase in students on campus, there was more utilization of the service (120%) and positive feedback from those that used the service. Trent has not yet collaborated with us on this service and continues to offer the Tutoring Board, which may cause confusion for students. The Association plans to budget for advertising and expand the Brand Ambassador Team to increase student awareness of this service.

President Litow-Daye speaks in favour of the motion highlighting the increase post covid and the efforts the Association will make with advertising. This year would provide a more accurate representation of students' use of the service and if we will continue to offer the service.

MOTION: Be it resolved that the Association's Nimbus Tutoring App contract be extended for the 2022/2023 academic year with an annual licence fee of \$14,080.

MOVED: VP Surujnarain, seconded by VP Anctil

Motion Carried

10. Any Other Business

Commissioner Slater-Meadows inquires about the Brand Ambassador process and what the timeline is for hire. Communication for Orientation Childcare Reimbursement for mature students with childcare needs during Orientation Week will be going out soon. This will be a reimbursement covering up to 80%, and will need to provide a receipt.

11. Adjournment

MOTION: Be it resolved that the 16.08.2022 Summer Committee Meeting be adjourned.

MOVED: President Litow-Daye, seconded by Commissioner Slater-Meadows

Motion Carried

TIME: 12:37 pm

Minutes Respectfully Submitted by

Wendy Walker

Association Resource Manager

Appendix

1.

Selwyn Link	Year 4 (2021)	Year 5 (2022)	Year 6 (2023)	Year 7 (2024)
Amount	\$45,000.00	\$55,000.00	\$65,000.00	\$75,000.00

President Litow-Daye asks if the levy, B!KE, has been contacted as this is something that would align with their organization's goals. Tracy agrees and says she can pass the opportunity on to both B!KE and the city. VP Naraine speaks against the motion citing the costs of the proposed transit terminal. VP Surujnarain also speaks against the motion, citing the new terminal's cost. Zoe asks for clarification on what the \$7500 includes. Tracy informs the committee that the city can't designate the buses to specific routes, meaning they may not be on buses servicing the Trent campus. Further, the \$7500 doesn't pay for the bike racks themselves and is only for advertising that would appear on them. For new infrastructure, the cost per bike rack/bus would be \$7000, including an 18-month advertisement on said rack. The proposed \$7500 would only be for advertising and not include purchasing new racks. Zoe requests that the vote be done through a poll as there is contention on the topic.

MOTION: Be it resolved that the Association sponsor five transit bike racks for one year at the cost of \$7500

Moved by: President Litow-Daye, seconded by VP Surujnarain

Motion Failed

The Selwyn Link Bus has connected with us to continue our partnership for their service for another year. Last year the Association paid \$45,000 for a 1-year pass (September-August) for all TCSA transit pass holders to also ride the Link route. Our ridership had a total of 3114 rides, 346 per month, which accounted for 53% of The Links service. The association hopes to continue with this agreement depending on how conversations go in the following weeks.

10. Any Other Business

An opportunity for Directors or members to bring an item of business up with the Board if they have not yet had the opportunity to do so.

11. Adjournment

...to end the meeting

MOTION: Be it resolved that the 2022.06.23 Summer Committee Meeting be adjourned.

Moved by: President Litow-Daye, seconded by VP Naraine

Motion Carried

TIME: 11:43 am

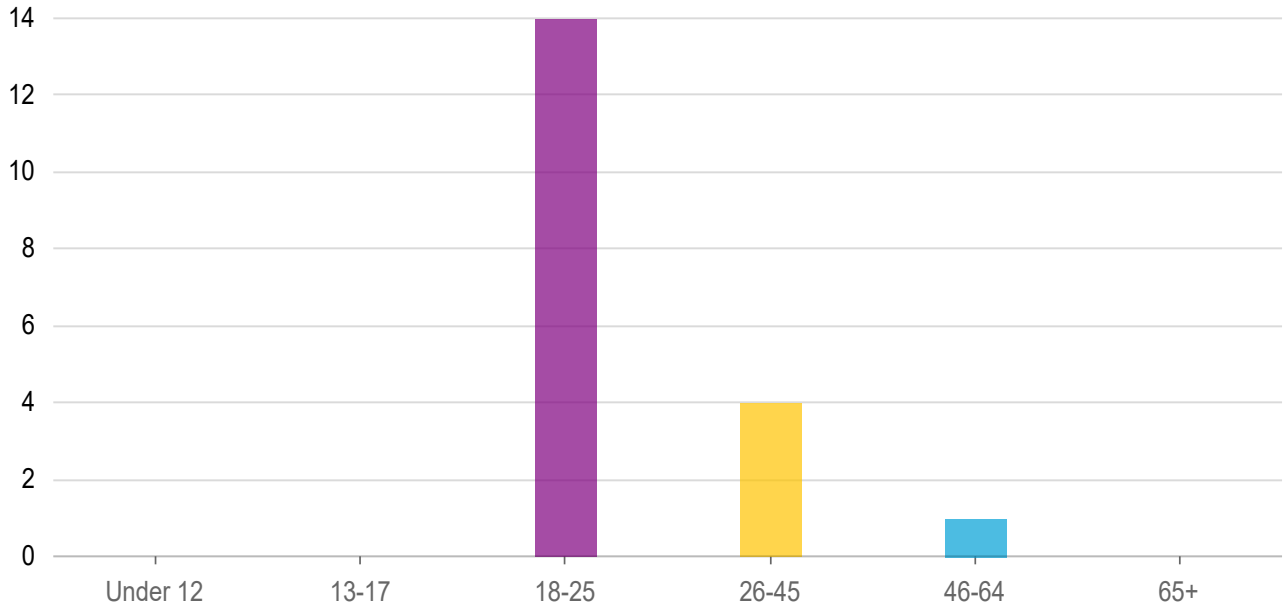
Minutes Respectfully Submitted by,

Wendy Walker
Association Resource Manager

The Link Rural Bus Survey

Public Feedback Survey

o Please select your age group:



Answers

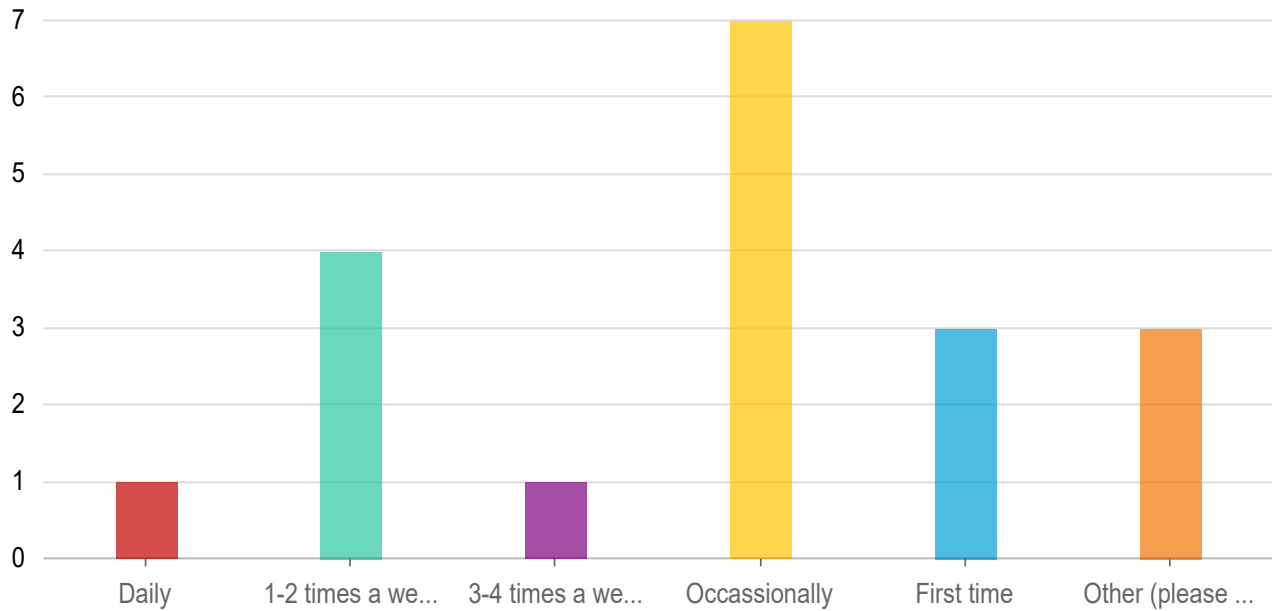
Count

Percentage

Answers	Count	Percentage
Under 12	0	0%
13-17	0	0%
18-25	14	73.68%
26-45	4	21.05%
46-64	1	5.26%
65+	0	0%

Answered: 19 Skipped: 0

o How often do you ride The Link?

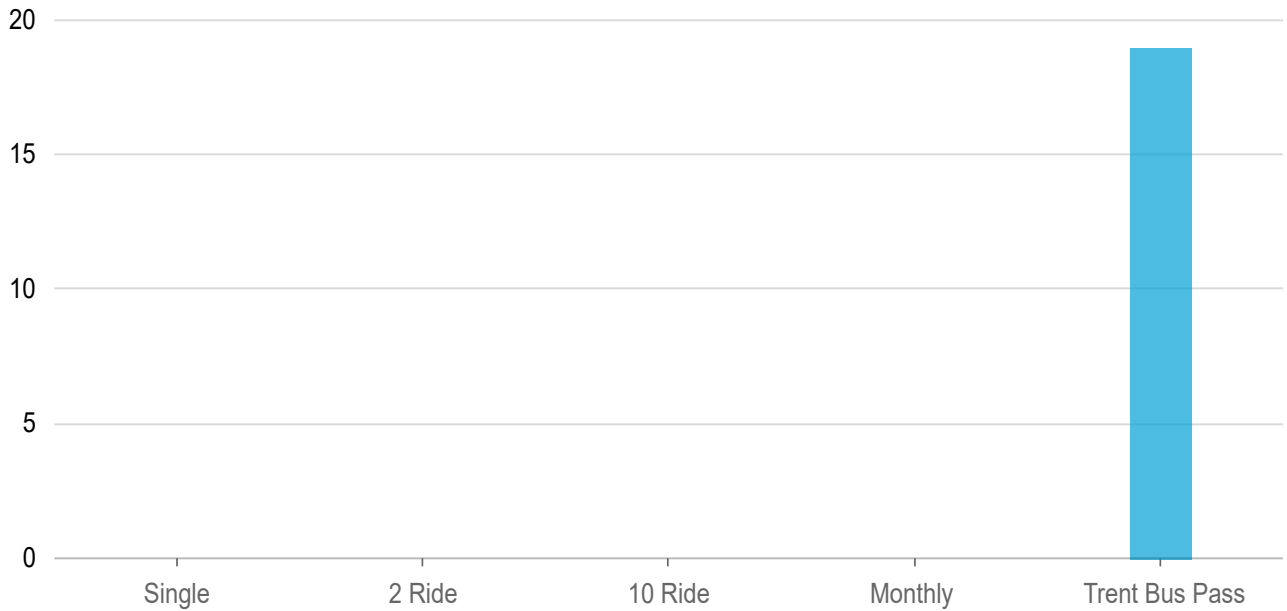


Answers **Count** **Percentage**

Answers	Count	Percentage
Daily	1	5.26%
1-2 times a week	4	21.05%
3-4 times a week	1	5.26%
Occassionally	7	36.84%
First time	3	15.79%
Other (please specify)	3	15.79%

Answered: 19 Skipped: 0

o What kind of bus pass do you use?

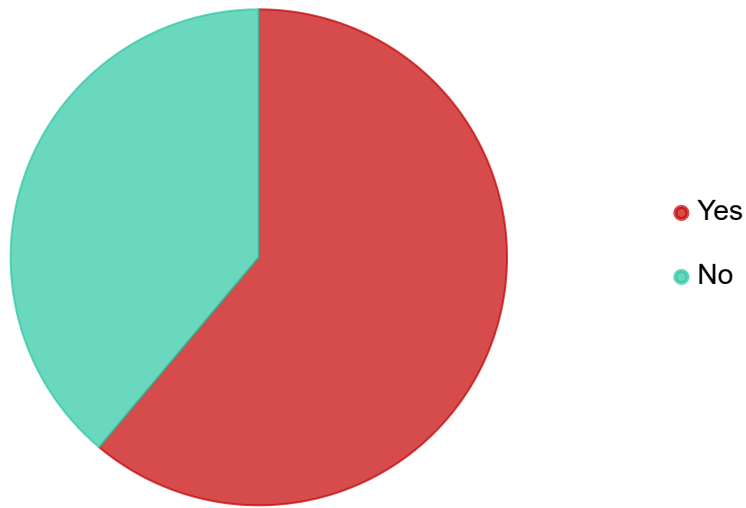


Answers **Count** **Percentage**

Single	0	0%
2 Ride	0	0%
10 Ride	0	0%
Monthly	0	0%
Trent Bus Pass	19	100%

Answered: 19 Skipped: 0

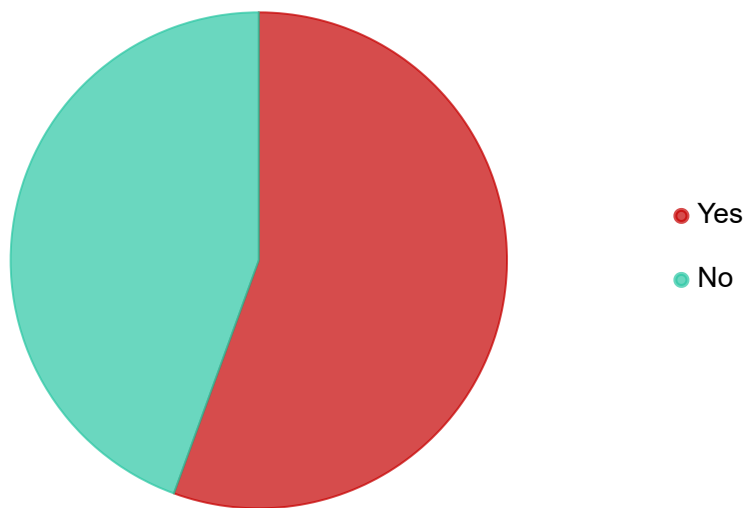
Are the bus prices affordable?



Answers	Count	Percentage
Yes	11	57.89%
No	7	36.84%

Answered: 18 Skipped: 1

o Would you purchase semi-annual or annual bus passes if available?

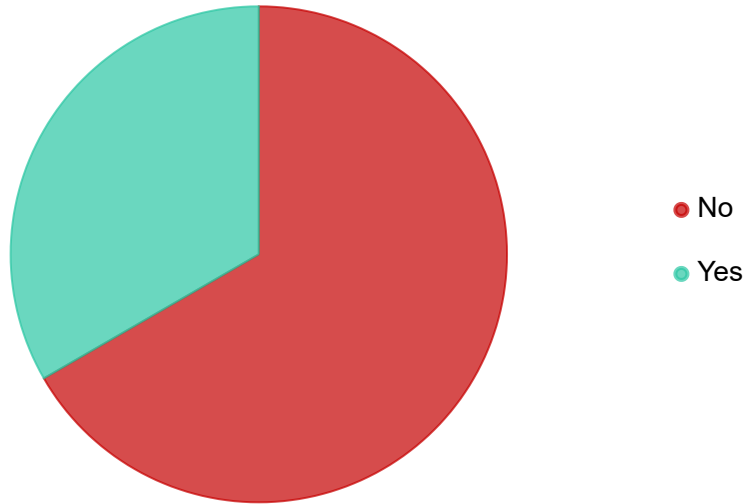


Answers	Count	Percentage
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Yes	10	52.63%
No	8	42.11%

Answered: 18 Skipped: 1

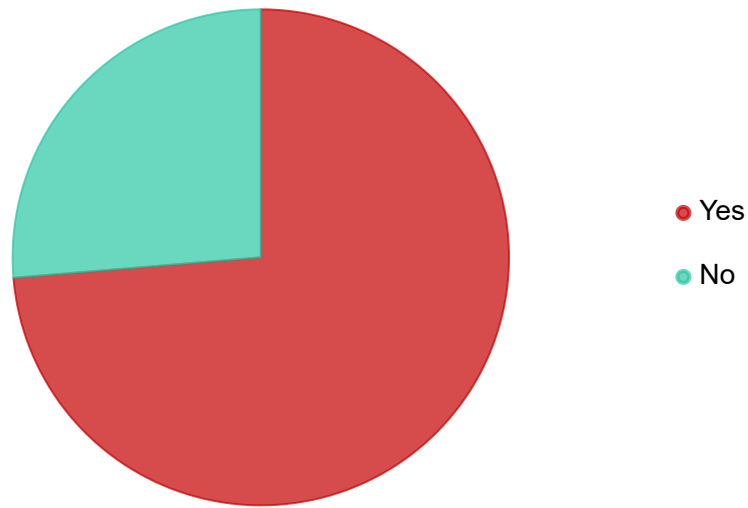
o Do you also purchase a Peterborough Transit bus pass?



Answers	Count	Percentage
No	12	63.16%
Yes	6	31.58%

Answered: 18 Skipped: 1

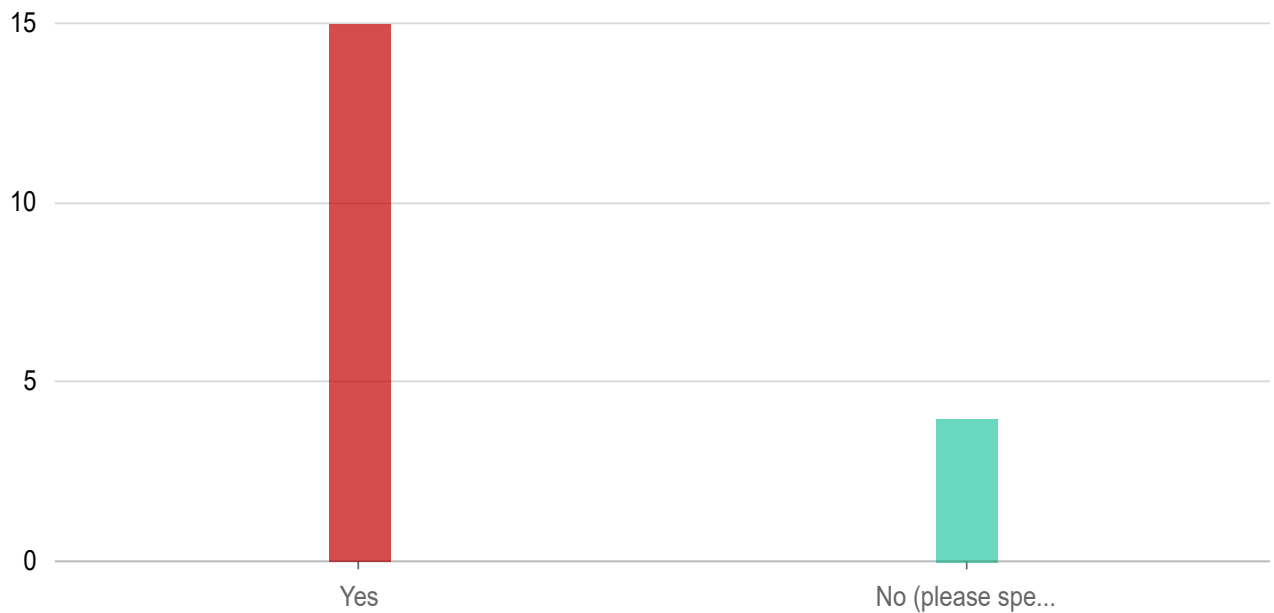
o Would you use a bike rack if one was available?



Answers	Count	Percentage
Yes	14	73.68%
No	5	26.32%

Answered: 19 Skipped: 0

o Is the bus easily accessible for you?

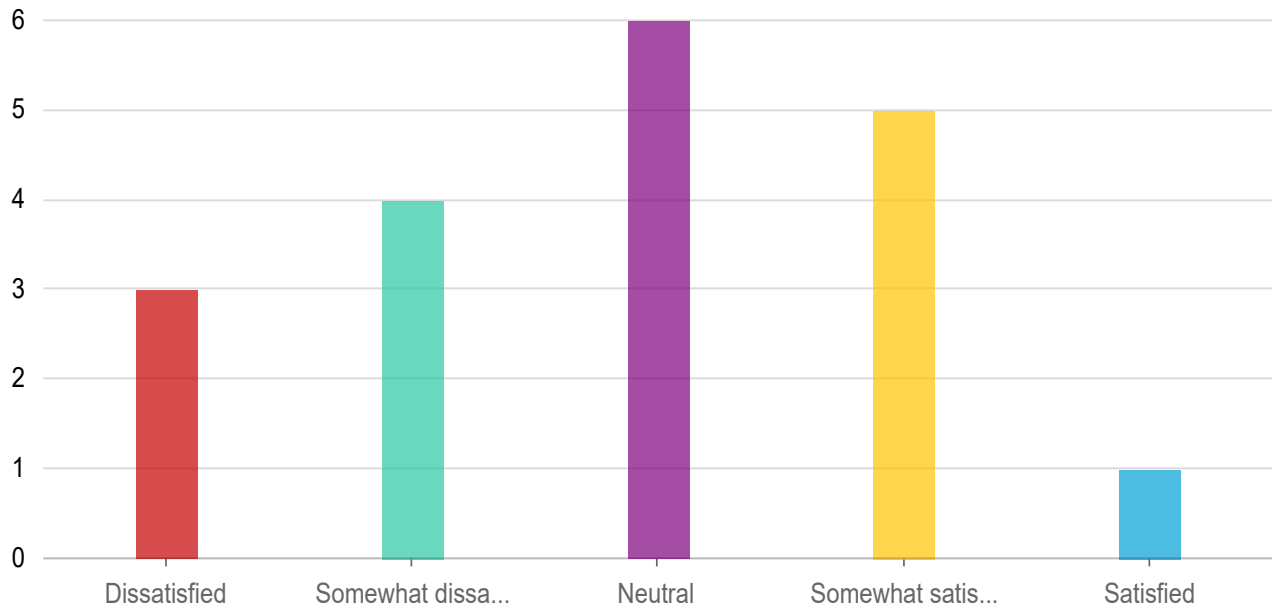


Answers	Count	Percentage
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Yes	15	78.95%
No (please specify)	4	21.05%

Answered: 19 Skipped: 0

o How satisfied are you with The Link schedule?

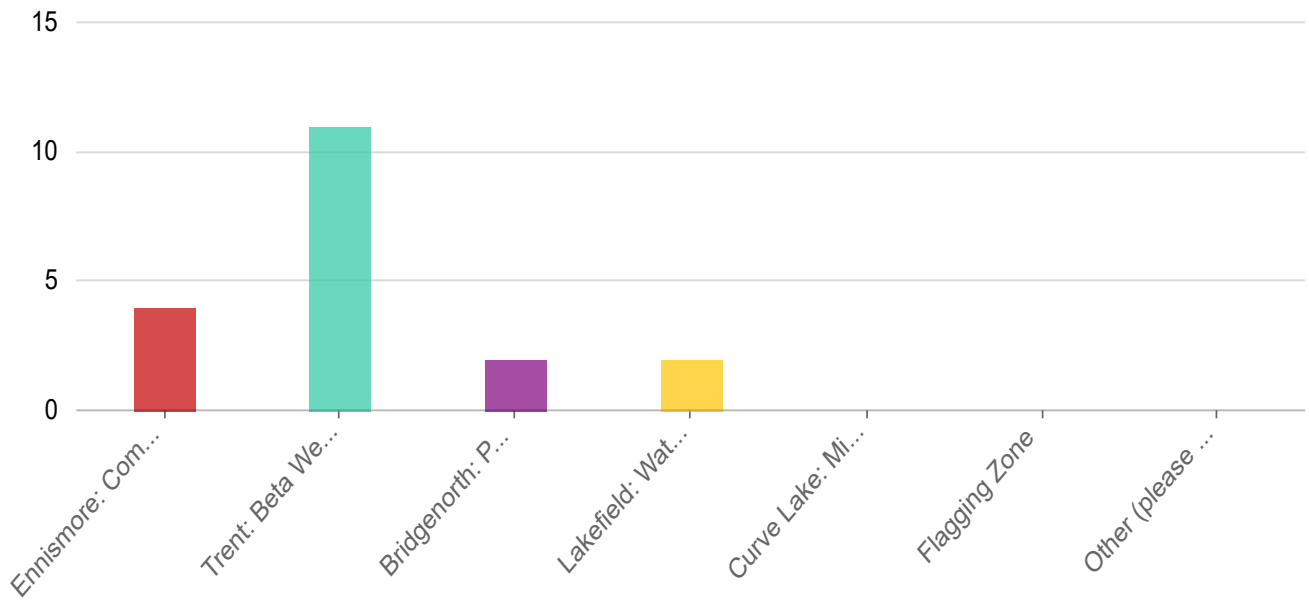


Answers	Count	Percentage
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Dissatisfied	3	15.79%
Somewhat dissatisfied	4	21.05%
Neutral	6	31.58%
Somewhat satisfied	5	26.32%
Satisfied	1	5.26%

Answered: 19 Skipped: 0

o Which bus stop do you use the most or is closest to you?

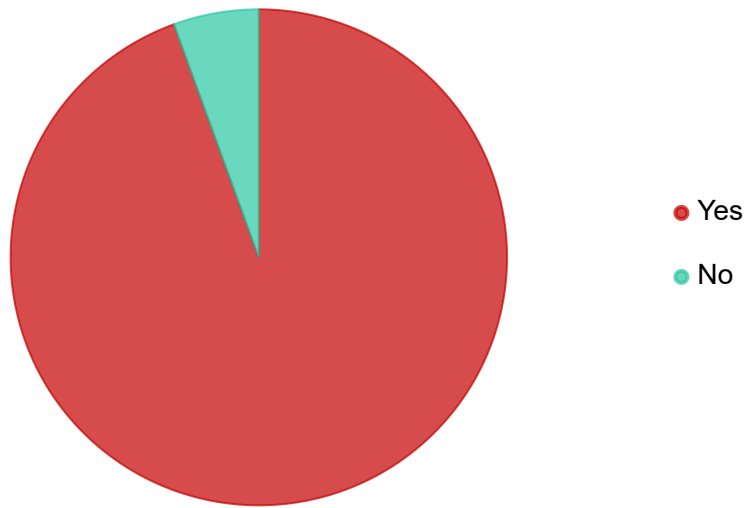


Answers **Count** **Percentage**

Answers	Count	Percentage
Ennismore: Community Centre	4	21.05%
Trent: Beta West Bank	11	57.89%
Bridgenorth: Public Library	2	10.53%
Lakefield: Water and Queen	2	10.53%
Curve Lake: Mississauga at Chemong	0	0%
Flagging Zone	0	0%
Other (please specify)	0	0%

Answered: 19 Skipped: 0

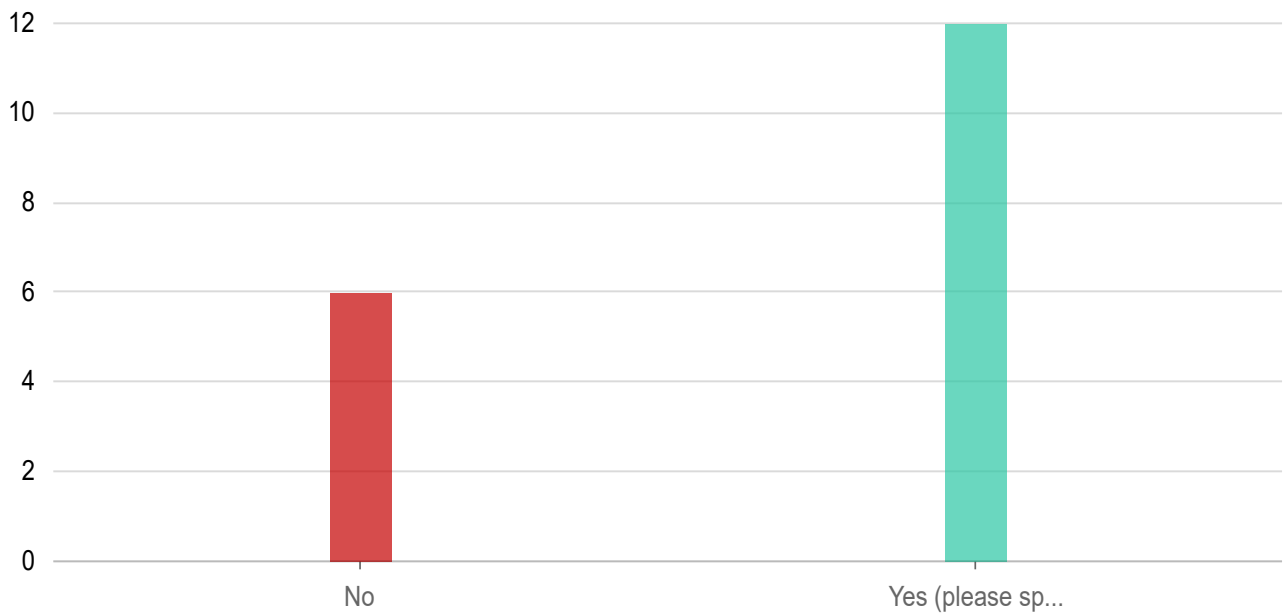
o Would you use The Link on the weekends if offered?



Answers	Count	Percentage
Yes	17	89.47%
No	1	5.26%

Answered: 18 Skipped: 1

o Are there additional routes or times you'd like to see?

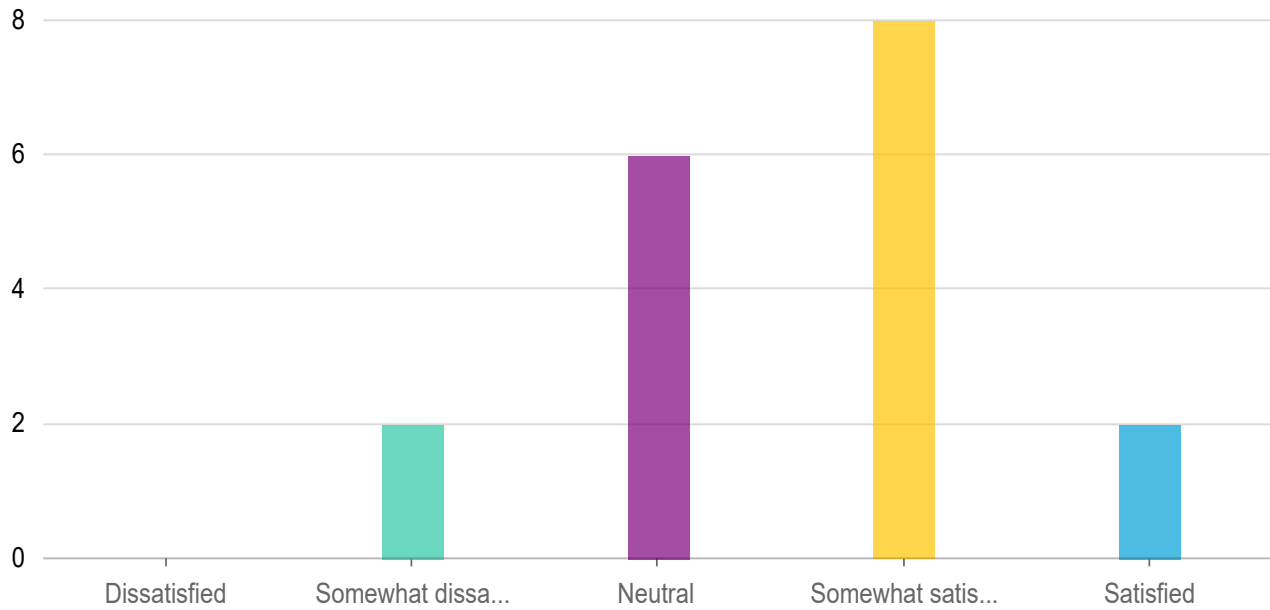


Answers	Count	Percentage
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No	6	31.58%
Yes (please specify)	12	63.16%

Answered: 18 Skipped: 1

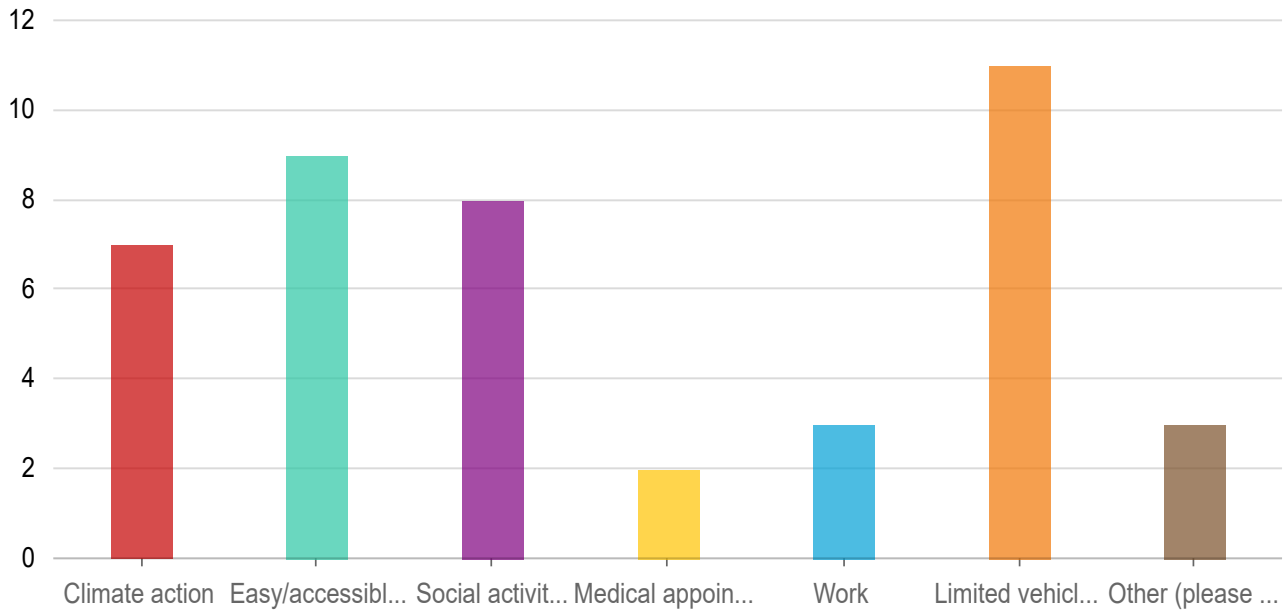
Overall, how satisfied are you with The Link service?



Answers	Count	Percentage
Dissatisfied	0	0%
Somewhat dissatisfied	2	10.53%
Neutral	6	31.58%
Somewhat satisfied	8	42.11%
Satisfied	2	10.53%

Answered: 18 Skipped: 1

Why do you ride The Link bus? (check all that apply)

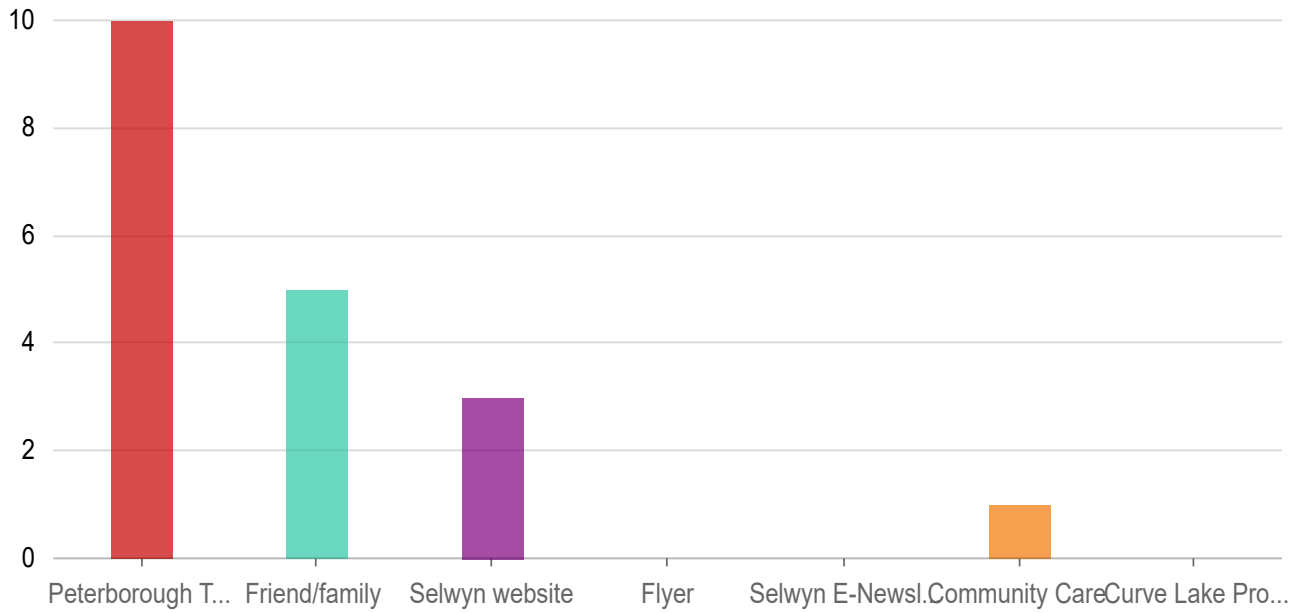


Answers **Count** **Percentage**

Answers	Count	Percentage
Climate action	7	36.84%
Easy/accessible	9	47.37%
Social activities	8	42.11%
Medical appointments	2	10.53%
Work	3	15.79%
Limited vehicle access	11	57.89%
Other (please specify)	3	15.79%

Answered: 19 Skipped: 0

o **How did you learn about The Link bus service?**

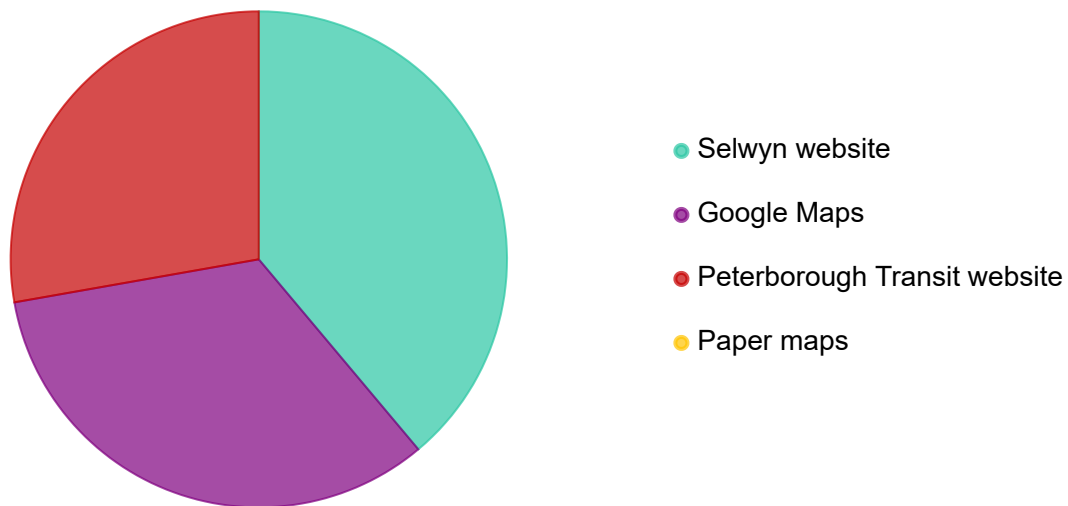


Answers **Count** **Percentage**

Answers	Count	Percentage
Peterborough Transit	10	52.63%
Friend/family	5	26.32%
Selwyn website	3	15.79%
Flyer	0	0%
Selwyn E-Newsletter	0	0%
Community Care	1	5.26%
Curve Lake Promotional Materials	0	0%

Answered: 19 Skipped: 0

o **Where do you access The Link schedule?**



Answers	Count	Percentage
Selwyn website	7	36.84%
Google Maps	6	31.58%
Peterborough Transit website	5	26.32%
Paper maps	0	0%

Answered: 18 Skipped: 1

o **Additional recommendations/comments?**

The word cloud requires at least 20 answers to show.

Response	Count
Without any weekend service, I cannot rely on the Link as my only way of getting from Lakefield to Tr ent and back when the weather is not suitable for biking.	1
The link bus should be added in under the Peterborough bus pass rather than needing a separate pa ss. If this was the case, I believe a lot more people would use this bus route	1

I would definitely use the service more if there was a bike rack. As trying to coordinate bus times to get to my job is trying, also the end of the day doesn't work to get back to Trent on time to catch the bus back home at a decent time. Thank you 1

Definitely add more frequent trips as well as buses on the weekends. As a trent student without a car I would love to go to lakefield more often but the timings for the buses are so infrequent and inconvenient that it never works out for my schedule. 1

Add more frequent bus rides and during the weekends too 1

Answered: 5 Skipped: 14

SOFTWARE LICENCE AGREEMENT

This Software Licence Agreement is made as of September 1st, 2022 (the “Effective Date”) by and between Nimbus Learning Inc., a corporation incorporated under the laws of Canada with a principal place of business at 373 Front Street West, Suite 1107, Toronto ON M5V 3R7, Canada, Attention: Benjamin Attal, Email Address: ben@nimbuslearning.com (“Nimbus”) and **the Trent Central Student Association**, a corporation incorporated under the laws of **Ontario**, having a place of business at 1680 West Bank Drive 2.15. Trent University, Peterborough ON K9L 0G5, Attention: Tracy Milne, Email Address: operations@trentcentral.ca (the “Client”).

WHEREAS:

- A. _____ Nimbus is the service provider of the Nimbus Solution (as defined below) and associated services as more particularly described in Schedules A and B attached hereto.
- B. The Client and its End Users may use the Nimbus Solution to (i) schedule and receive lessons with Client-approved tutors, mentors, advisors and students, (ii) message students, tutors, mentors, advisors and Client-approved administrative accounts, (iii) conduct lessons virtually and utilize a virtual whiteboard, and (iv) view lesson, student, course and end-user analytics.
- C. Nimbus will create a customized portion of the Nimbus Solution that will reflect the Client’s branding, including the Client Marks (as defined below) in select portions of the Nimbus Solution.

NOW THEREFORE in consideration of the mutual promises, covenants and agreements contained herein and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) the parties hereby agree as follows:

1. Definitions. The following terms, wherever used in this Agreement, shall have the respective meanings set forth below:

“**Agreement**” means this Software Licence Agreement and all Schedules attached hereto, and any additional terms, conditions or future modifications as described herein.

“**Canada's Anti-Spam Legislation**” means an Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the *Canadian Radio-television and Telecommunications Commission Act*, the *Competition Act*, the *Personal Information Protection and Electronic Documents Act* and the *Telecommunications Act*, as amended.

“**Client**” has the meaning ascribed on Page 1 of this Agreement.

“**Client Marks**” means any trademarks owned by the Client.

“**Collateral Material**” means any websites, brochures, pamphlets and such other printed, digital, marketing material and electronic materials advertising and promoting the Nimbus Solution.

“Confidential Information” means all information (in any form), whether disclosed in writing, electronically, orally, in machine readable form or otherwise, and whether or not specifically marked as confidential, including but not limited to, the terms and agreements contained in this Agreement, information that relates to a party’s past, present and future software, development activities, business activities, financial statements, client lists, products, services, technical knowledge, and all analyses, compilations, studies, documents or records, the Nimbus Solution, the Documentation, the Results, the Maintenance Releases, the Student Data, business plans, business strategies, marketing plans, any other technical, engineering, product, servicing, personnel, business or financial information, which is prepared, provided, developed, made available or disclosed by the Disclosing Party or its Representatives to the Receiving Party, or that the Receiving Party prepares that contains or otherwise reflects a review of any of the information referred to in this Section.

“Disclosing Party” means the party disclosing its Confidential Information to the other party.

“Documentation” means all user manuals, operating manuals, technical manuals or specifications that describe the functionality, installation, operation, and use of the Nimbus Solution.

“Effective Date” has the meaning assigned to it on Page 1 of this Agreement.

“End Users” means students enrolled at the University of British Columbia, Vancouver campus who are eligible to use the Nimbus Solution, Client approved employees or students who act as tutors, mentors, and/or advisors, as well as Client approved administrators who are responsible for managing and overseeing the growth of the program.

“Force Majeure Event” means any failure or delay in the performance by a party of its obligations under this Agreement, if any, to the extent such failure or delay (a) is caused, directly or indirectly, without fault by the non-performing party, by fire, flood, hurricane, earthquake, acts of God, pandemic, epidemic, war, terrorism, explosion, riots, civil disorders, rebellions or revolutions, lawful acts of any Governmental Authority or any other cause beyond the reasonable control of the non-performing party and/or (b) could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans or other means.

“Governmental Authority” means (a) any government, agency, commission, board, tribunal, dispute settlement panel or body, bureau, official, minister, or court or other law, rule or regulation-making entity and/or (b) any regulatory authority, self-regulatory organization or other entity having jurisdiction over the Client, Nimbus or the Nimbus Solution.

“Initial Term” has the meaning assigned to it in Section 16.

“Intellectual Property” means any and all rights in and in relation to any intellectual and industrial property of every nature, under the laws of any country, whether registered or unregistered, including without limitation, improvements, modifications, developments, trade secrets, proprietary information, know-how, derivative works, copyrights, moral rights, databases, data structures, database designs, screenshots, database indices, modules, objects, classes, packages, in-line comments, user interfaces, design documents, test plans and scripts, computer programs, applications and software (whether in source, object code or

executable formats) and related documentation and manuals, literary and/or artistic works, compositions, compilations, diagrams, designs, domain names, patents (including without limitation, divisions, reissues, substitutions, prolongations, continuations, re-examinations, continuations in part, renewals, modifications and extensions thereof), trademarks, trade dress, rights under registered user agreements, trade names, corporate names, business names, social media handles, hashtags, keywords and other trademark and service mark rights and goodwill, industrial designs, models and utility models, prototypes, inventions, ideas, data, suggestions, conceptions, formulations, compounds, methods, discoveries, processes, compositions, research data and results, project plans, notes, testing materials, logs, drawings, information, findings, results, technologies, materials, formulae, specifications and architecture, data, techniques, instructions, manuals, records, look and feel, integrated circuit topography, studies, blueprints, packaging, reports, files, samples, photographs, graphs, graphics, text files, websites (including all of the related web pages, content, software, information, photographs, images, illustrations, audio clips, video clips, data, code, graphics, text files, icons, titles, objects, concepts, artwork, animations, text, sounds, audio-visual effects, methods of operation and the look and feel of the content and information), drawings, interfaces, screen display, audio visual display or presentation, algorithms, documentation and media, and procedures, in whatever form or medium, including:

- (a) the benefit of all registrations and applications to register as well as all rights to apply for registration of any of the foregoing items and all rights in the nature of any of the foregoing items, each for their full term (including any extensions or renewals thereof);
- (b) any other statutory protection of whatever kind;
- (c) all such other rights which may be recognized under law, equity, contract or otherwise, to protect technical or other creative contributions or expressions;
- (d) confidential information, know-how and trade secrets;
- (e) all priority rights derived from any of the foregoing items and all rights in the nature of any of the foregoing items for any and all countries in the world; and
- (f) all rights to sue for infringement, misappropriation and/or violation of any of the foregoing items and all rights in the nature of any of the foregoing items, whether arising prior to or subsequent to the date of this Agreement.

“Laws” means (a) any statute, regulation, by-law, ordinance or subordinate legislation in force from time to time to which a party is subject, (b) the common law and the laws of equity as applicable to the parties from time to time, (c) any binding order, judgement, decree, direction, policy, or rule, including from a Governmental Authority or (d) any applicable industry code, policy or standard enforceable by law.

“Licence” has the meaning assigned to it in 5.

“Maintenance Release” means any enhancement, reduction, change, modification, translation, update, error correction, set of bug fixes, upgrade or improvement to the Nimbus Solution that Nimbus makes from time to time. For clarity, this excludes any new functionality added to the Nimbus Solution that is identified by Nimbus as a separate product or service.

“Nimbus” has the meaning ascribed on Page 1 of this Agreement, and includes all of Nimbus’s affiliates, subsidiaries, shareholders, officers, directors, agents, representatives, contractors, suppliers, customers, licensors, licensees, partners, employees, successors and assigns, except for the Client.

“Nimbus Solution” means (a) the Nimbus platform, application and software, together with all computer programs, software, databases and/or multi-media content in object code form that are embedded in the said platform, application and software or delivered to the Client separately by Nimbus and are designed to be used in conjunction with the said platform, application and software, (b) the Documentation, and (c) the Maintenance Releases.

“Student Data” means any data and information distributed or submitted electronically or otherwise by the Client or End User via the Nimbus Solution.

“Student Data Licence” has the meaning assigned to it in Section 5.

“Receiving Party” means the party receiving Confidential Information from the other party.

“Renewal Term” has the meaning assigned to it in Section 16.

“Representative” means with respect to a party any and all employees, officers, directors or agents of that party.

“Results” means any and all results, reports and recommendations based on the Student Data, user data, analytics and/or user data results that Nimbus provides to the Client. The term “Results” shall also include any modification or enhancement to the Student Data and any Intellectual Property relating thereto by Nimbus, and any Intellectual Property made, conceived, acquired, suggested, discovered or developed by Nimbus, or under Nimbus’s direction, either solely or jointly with others, which relates to, relies on or uses the Student Data and all Intellectual Property relating thereto.

“Support Services” means the support services described in Schedule B.

“Term” means the Initial Term and any Renewal Term(s).

2. Construction. In this Agreement, unless the context indicates a contrary intention:

- (a) All dollar amounts are expressed in Canadian dollars unless stated otherwise.
- (b) References to articles and sections are references to the articles and sections of this Agreement, and their headings are for ease of reference only and will not affect the interpretation of this Agreement.
- (c) Use of the words “includes” or “including” or the abbreviation “e.g.” means “including, without limitation”, and the term “such as” will mean “such as without limitation”.

- (d) The language used in this Agreement is the language chosen by the parties to express their mutual intent, and no rule of strict construction will be applied against any party.
- (e) Words in the singular include the plural and vice versa and words in one gender include all genders.

3. Conflict. In the event of a conflict or inconsistency between this Agreement and any Schedule, this Agreement will prevail, unless the Schedule expressly states that it shall prevail with respect to the specific conflict or inconsistency.

4. Entire Agreement. This Agreement, together with any amendment thereof, constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written of either of the parties in respect of the subject matter hereof. There are no conditions, representations, warranties or other agreements between the parties in connection with the subject matter of this Agreement, whether oral or written, express or implied, statutory or otherwise, except as specifically set out in this Agreement.

5. Licence. The parties agree that:

- (a) Subject to the terms and conditions of this Agreement:
 - (i) Nimbus shall provide the Nimbus Solution to the Client in accordance with this Agreement and the Documentation for access and reasonable use by the Client and its End Users. The Documentation shall be delivered by electronic transmission; and
 - (ii) Nimbus shall, from time to time and in its sole discretion, provide the Results to the Client.
- (b) Subject to the terms and conditions of this Agreement, Nimbus hereby grants to the Client a personal, revocable, non-exclusive, non-assignable, non-transferable, right and licence to access and use the Nimbus Solution and the Results for the Term in accordance with this Agreement (the "Licence"). For clarity, the Licence is personal to the Client, and the Licence may not be assigned or transferred to any other person or accessed and used for purposes other than as described in this Agreement. The Licence shall include the right to sublicense the Nimbus Solution to the End Users of the Client for the sole purpose of granting access to and use of the Nimbus Solution to said End Users. Using the Nimbus Solution and the Results for any other purpose or in any other manner is strictly prohibited. Nimbus retains all rights not expressly granted hereunder. Any access and use of the Nimbus Solution and the Results, other than as specifically authorized under this Agreement, without the prior written consent of Nimbus, is strictly prohibited and may, at the discretion of Nimbus, terminate the Licence.
- (c) Subject to the terms and conditions of this Agreement, the Client hereby grants to Nimbus a royalty-free, fully-paid, perpetual, irrevocable, transferable, sublicenseable, worldwide and non-exclusive right and licence to access, reproduce, copy, distribute, create derivative works of, adapt, translate, transmit, arrange, modify, host, bundle, use and fully exploit the Student Data and any

Intellectual Property relating thereto (the "Student Data Licence"). Nimbus can grant sublicenses with respect to the Student Data Licence.

6. Licence to Client Marks. Subject to the terms and conditions of this Agreement, the Client hereby grants to Nimbus a non-transferable, non-exclusive, royalty-free, revocable, non-sublicensable, worldwide right and license to use the Client Marks on the customized portion of the Nimbus Solution developed for the Client, and on Nimbus's Collateral Material for the purpose of promoting the Nimbus Solution during the Term of this Agreement, subject to the following:

- (a) the usage of the Client Marks by Nimbus shall at all times be under the control of the Client, and Nimbus shall co-operate with the Client in facilitating the exercise of such control by the Client.
- (b) Nimbus agrees that all uses by Nimbus of the Client Marks and all goodwill associated therewith enure to the exclusive benefit of the Client. Nimbus hereby irrevocably assigns to the Client any goodwill arising from Nimbus's use of the Client Marks;
- (c) Nimbus will not challenge or dispute, or assist any third party to challenge or dispute, the Client's ownership of any the Client Marks or the validity or enforceability of any of the Client Marks;
- (d) Nimbus has no right to grant sublicenses regarding the Client Marks; and
- (e) Nimbus shall obtain no rights to the Client Marks except for the limited rights granted in this Section.

7. Restrictions. The parties agree that:

- (a) The Client will not and will not knowingly allow any of the End Users (i) to use, modify, enhance, translate, transfer, transmit, disclose, copy, release, communicate, reproduce, provide or make available to any third party, in any way, Nimbus's Confidential Information, and/or the Nimbus Solution, and all Intellectual Property relating thereto, in whole or in part, except as expressly provided for in this Agreement, (ii) to copy, use, analyze, translate, convert, reverse engineer, decompile, disassemble or otherwise reduce the Nimbus Solution and/or Nimbus's Confidential Information, and all Intellectual Property relating thereto, to a human readable form, nor permit any operator, employee, agent, outside consultant or other third party to do any of the foregoing. Any modification or enhancement to the Nimbus Solution and/or Nimbus's Confidential Information, and any Intellectual Property relating thereto, other than as specifically authorized under this Agreement, without the prior written consent of Nimbus, is strictly prohibited and may, at the discretion of Nimbus, terminate the Licence and any Intellectual Property made, conceived, acquired, suggested, discovered or developed by the Client, or under the Client's direction, either solely or jointly with others, which relates to, relies on or uses the Nimbus Solution and/or Nimbus's Confidential Information, and all Intellectual Property relating thereto, shall be treated as Confidential Information of Nimbus and shall be the sole exclusive property of Nimbus. The Client agrees and covenants to disclose promptly in writing to Nimbus any such Intellectual Property.

- (b) The Client will not and will not knowingly allow any of the End Users to sell, market, rent, lease, transfer, distribute, sublicense or create derivative works of the Nimbus Solution, the Results, and/or Nimbus's Confidential Information, and all Intellectual Property relating thereto, in whole or in part, to any third party, except as expressly provided for in this Agreement.
- (c) This Agreement shall not be construed as granting or conferring any ownership, security right, title, rights or licences to use or modify in any manner the Nimbus Solution, the Results and/or Nimbus's Confidential Information, and all Intellectual Property relating thereto, except for the Licence.
- (d) The Client will not and will not knowingly allow any of the End Users to assign or grant a sublicense for this Agreement or any rights or licences obtained pursuant to it, except as expressly provided for in this Agreement.
- (e) The Client shall use commercially reasonable efforts to ensure the Nimbus Solution is accessible to the End Users and with resolving any questions related to the Nimbus Solution.
- (f) The Client will not and will not knowingly allow any of the End Users to:
 - (i) commit any act that may conflict with or adversely affect in any way the provision or operation of the Nimbus Solution or any part thereof by Nimbus;
 - (ii) abuse, tamper with or fraudulently use the Nimbus Solution or any part thereof or permit or assist others to abuse, tamper with or fraudulently use the Nimbus Solution or any part thereof;
 - (iii) either use the Nimbus Solution or any part thereof or permit or assist others to use the Nimbus Solution or any part thereof (a) in any manner that conflicts with the Documentation or this Agreement, or a reasonable person would recognize as interfering unreasonably with the Nimbus Solution, the provision thereof, or access to or use of the Nimbus Solution by Nimbus's other customers, (b) for any purpose or in any manner directly or indirectly in violation of applicable Laws or in violation of any third party rights, including Intellectual Property rights and privacy rights, or (c) for transmission of data to the Nimbus Solution or any part thereof that is known to be false or counterfeit, or that is obscene, indecent or otherwise offensive, or that contains sensitive data such as banking data or health data;
 - (iv) perform load or penetration tests on the Nimbus Solution or any part thereof except as mutually agreed and scheduled in advance;
 - (v) lend, rent, sell, transfer or distribute the Nimbus Solution or any part thereof to third parties or use the Nimbus Solution or any part thereof as an application service provider, service bureau, or rental source for third parties, except as permitted under this Agreement.

8. Nimbus Covenants. Nimbus warrants and covenants to the Client that it will perform the Support Services and carry out all its duties and obligations hereunder diligently, in good faith and in a reasonable and prudent manner, using qualified and experienced personnel and in

accordance with good business practices and the professional standards of other Canadian providers of similar products and services.

9. Client Covenants – Student Data. The parties agree that:

- (a) If the Client provides to Nimbus (including by uploading or transmitting in or through the Nimbus Solution), or if the Client obtains from an End User, any Student Data, that all disclosures have been provided and all consents have been obtained that are required under applicable Laws in respect of the collection, storage, use and disclosure of such Student Data by Nimbus or the Client in accordance with this Agreement.
- (b) The Client has ensured, in its agreements with its End Users, that all disclosures have been provided and consents have been obtained that are required under applicable Laws in respect of the collection, storage, use and disclosure of such Student Data by Nimbus or the Client in accordance with this Agreement.

10. Client Covenants. The Client agrees, acknowledges and covenants and shall cause its End Users to agree, acknowledge and covenant:

- (a) (i) to keep all disclaimers and copyright, trademark and other proprietary notices intact on the Nimbus Solution; (ii) that access and use of the Nimbus Solution does not transfer to the Client any ownership or other rights in the Nimbus Solution; and (iii) to access and use the Nimbus Solution only in the manner described expressly in this Agreement and subject to all applicable Laws.
- (b) the validity of the Nimbus Solution. The Client shall not and shall cause its End Users to not use or modify the Nimbus Solution in any manner likely to negate, impair or dilute any of the rights of Nimbus. The Client shall not and shall cause its End Users to not, either during the Term or at any time thereafter, contest or dispute or assist another in contesting or disputing, directly or indirectly, the validity, ownership, control or enforceability of any of Nimbus's right, title and interest in and to the Nimbus Solution and/or Nimbus's Confidential Information, and all Intellectual Property relating thereto.
- (c) that it shall not at any time file any Intellectual Property, secure and/or register any Intellectual Property or maintain any Intellectual Property relating to or arising out of the Nimbus Solution and/or Nimbus's Confidential Information, or any Intellectual Property relating thereto.
- (d) not to, to the extent legally enforceable, file any action to challenge or raise any question or objection, or cause to be filed any such action or cause to be raised any such question or objection, to the validity, enforceability, registration or patentability of the Nimbus Solution and/or Nimbus's Confidential Information, or any Intellectual Property relating thereto, on any grounds whatsoever.
- (e) to provide to Nimbus all such access, assistance and co-operation as is reasonably requested by Nimbus in order to facilitate the performance by Nimbus of its obligations hereunder.
- (f) to access and use the Nimbus Solution in a careful and prudent manner in accordance with this Agreement.

- (g) to (i) comply with all Laws and directions of Nimbus regarding the access and use of the Nimbus Solution; (ii) not, nor shall the Client permit any person, other than Nimbus's authorized representatives, to modify, disassemble, perform maintenance on, service or attempt any repair or adjustment to the Nimbus Solution.
- (h) to assume the full risk for loss or damage to the Nimbus Solution, however caused, except if caused by the negligent act or omission of Nimbus.
- (i) to keep the Nimbus Solution and Nimbus's Confidential Information free and clear of any liens or other encumbrances.

11. Client Costs. The Client shall be solely responsible for:

- (a) the cost of all necessary servicing, repair or correction of problems caused by viruses or other harmful components, unless such viruses or other harmful components are the direct result of Nimbus's negligence or wilful conduct; and
- (b) the cost of acquiring, installing, operating, servicing, maintaining and updating all equipment, computers, software and communication services not owned or operated by or on behalf of Nimbus that allows the Client to access and use the Nimbus Solution and the Results.

12. Security. The Client shall ensure that its systems include reasonable attacker defences and security measures. The Client's systems shall be configured with reasonable security measures related to data theft (through SSL encryption) and unauthorized network access from other unlicensed computers within its End Users.

13. Availability. The Client acknowledges and agrees that the operation and availability of the systems used for accessing, using and interacting with the Nimbus Solution, including the public telephone, computer networks and the Internet, or to transmit information whether or not supplied by you or Nimbus, can be unpredictable and may, from time to time, interfere with or prevent the access, the use and/or the operation of the Nimbus Solution. The Client acknowledges and agrees that the bandwidth and servers provided by Nimbus are not guaranteed and the Client agrees not to use an unreasonable amount of bandwidth or unreasonably burden Nimbus's servers. Nimbus is not responsible for any outages at the Client's premises, including internal network, local infrastructure or facilities, unless directly attributable to Nimbus's negligence or wilful conduct. In the event viruses are detected in the Client's local client environment managed by Nimbus, Nimbus may be required to secure the systems by denying access to infected users. If the virus infection is traced back to the Client, the Client will be invoiced for remedying the virus.

14. Suspension. Nimbus reserves the right to temporarily suspend the delivery of the Nimbus Solution where the Client, its Representatives or End Users are committing any act (i) described in Section 7, or (ii) that materially and adversely impacts Nimbus's systems or its ability to provide services to its other customers, with prompt written notice thereafter to the Client regarding the nature of the act. Nimbus shall cooperate with the Client in identifying and resolving any issues to minimize any suspension of the Nimbus Solution.

15. Student Data. The Client acknowledges and agrees that Nimbus has the perpetual and irrevocable right to delete any or all of the Student Data and the Results, including any Intellectual Property relating thereto, from Nimbus's servers and from the Nimbus Solution, whether intentionally or unintentionally, and for any reason or no reason, without any liability of

any kind to the Client or any other party. The Client understands and agrees that Nimbus has the right, but not the obligation, to remove, in whole or in part, any Student Data, Results or other content related to the Nimbus Solution, including without limitation, data, account history and account content residing on Nimbus's servers or software, at any time for any reason or no reason, with or without notice and with no liability of any kind.

16. Term. This Agreement will commence on the Execution Date and will continue thereafter until August 31st 2023 (the "Initial Term"), unless terminated earlier in accordance with the terms of this Agreement or renewed as provided herein. Thereafter, this Agreement will automatically renew for an additional 1 year period on the anniversary of the Effective Date (each, a "Renewal Term") unless the Client or Nimbus provides notice to the other party at least sixty (60) days prior to the end of the Initial Term, or then current term, as applicable, that it does not wish the Agreement to automatically renew.

17. Support Services. Nimbus will perform the Support Services described in Schedule C attached hereto. The Client shall be entitled to receive support services on the date when the Client makes the Nimbus Solution generally available to End Users, until the termination of this Agreement, which shall include the following:

- (a) Nimbus shall provide the Client with Maintenance Releases made generally available to its other customers.
- (b) Nimbus will provide the Client with release notes for every Maintenance Release.

18. Ongoing Maintenance Releases. Nimbus will exert commercially reasonable efforts to ensure each Maintenance Release is backwards compatible. Notwithstanding the preceding sentence, the Client acknowledges that, infrequently, in the event that there is a regulatory or applicable Law requirement, or a security vulnerability of the Nimbus Solution, or a material deficiency that impacts or has the potential to impact the continued operation of the Nimbus Solution, Nimbus may issue a Maintenance Release that is not backwards compatible.

19. Subcontracting. The Client acknowledges that Nimbus, and its service providers, may have pre-existing agreements in place or may enter into agreements during the Term of the Agreement with entities who will be performing some of Nimbus's obligations relating to the Support Services, and that these entities may change from time to time at Nimbus's sole discretion. Nimbus will at all times be the Client's sole point of contact regarding the Support Services provided under this Agreement, including with respect to payment of fees for Support Services provided.

20. Fees. The Client shall pay the fees specified in Schedule A attached hereto.

21. Payment. All undisputed monthly fees and other payment amounts are due within thirty (30) calendar days from receipt of Nimbus's invoice. Overdue accounts on any undisputed amounts shall be charged interest at 20% per annum.

22. Taxes. The fees payable under this Agreement are exclusive of any excise tax, customs duties and federal, provincial or local taxes, including any withholding taxes. The Client shall be responsible for payment of all applicable federal, provincial or local taxes (other than federal and excise taxes and customs duties and taxes based on the net income of Nimbus) levied or arising on account of the Nimbus Solution and/or this Agreement. The Client shall make all payments to Nimbus under this Agreement without deduction or withholding for taxes. In the event that the Client is required by any Laws to withhold or deduct an amount of tax from any amounts payable under this Agreement, then the amount payable by the Client shall be

increased by the amount necessary to ensure that after such deduction or withholding of taxes, Nimbus receives the same amount that it would have received had no such deduction or withholding of taxes occurred.

23. IP Ownership. The parties agree that:

- (a) Nimbus is the sole and exclusive owner of and shall own all right, title and interest in the Nimbus Solution, Maintenance Releases, Documentation and Nimbus's Confidential Information, and all Intellectual Property relating thereto. The Client shall maintain the Nimbus Solution, Maintenance Releases, Documentation, Nimbus's Confidential Information, and all Intellectual Property relating thereto, in confidence, except as otherwise stated in this Agreement. The Nimbus Solution, Maintenance Releases, and the Documentation shall be treated as the Confidential Information of Nimbus.
- (b) The Client is the sole and exclusive owner of and shall own all right, title and interest in the Client Marks and the Client's Confidential Information, and all Intellectual Property relating thereto. Nimbus shall maintain the Client's Confidential Information, and all Intellectual Property relating thereto, in confidence, except as otherwise stated in this Agreement.

24. Assignment of IP. The parties agree that:

- (a) The Client assigns and transfers and/or shall cause the assignment and transfer over to Nimbus of any right, title and interest, worldwide, it may have or may in the future acquire in and to the Nimbus Solution and Nimbus's Confidential Information, and all Intellectual Property relating thereto, and without any remuneration. The Client agrees, at the request of Nimbus, to do or to cause all lawful acts to secure and protect Nimbus's rights and interests in the Nimbus Solution and Nimbus's Confidential Information, and all Intellectual Property relating thereto, without any compensation, and the Client agrees, when requested by Nimbus, to execute, acknowledge and deliver to Nimbus, without compensation, any and all instruments, assignments, waivers and documents relating thereto.
- (b) Nimbus assigns and transfers and/or shall cause the assignment and transfer over to the Client of any right, title and interest, worldwide, it may have or may in the future acquire in and to the Client Marks, and the Client's Confidential Information, and all Intellectual Property relating thereto, and without any remuneration. Nimbus agrees, at the request of the Client, to do or to cause all lawful acts to secure and protect the Client's rights and interests in the Client Marks, and the Client's Confidential Information, and all Intellectual Property relating thereto, without any compensation, and Nimbus agrees, when requested by the Client, to execute, acknowledge and deliver to the Client, without compensation, any and all instruments, assignments, waivers and documents relating thereto.

25. Waiver. The parties agree that:

- (a) The Client waives any rights which the Client may have in the Nimbus Solution and Nimbus's Confidential Information, and all Intellectual Property relating thereto, including moral rights.

- (b) Nimbus waives any rights which Nimbus may have in the Client Marks and the Client's Confidential Information, including moral rights.

26. IP Notices. The Client shall mark in the appropriate place on or within each of the items which bear the Nimbus Solution, an appropriate notice of copyright, trademark or otherwise as stipulated by Nimbus from time to time, and a notice that the Client is using the same as a "Licensee" or other such designation, as required from time to time by Nimbus. The Client shall ensure that all proprietary notices, trademark notices, copyright notices and disclaimers of Nimbus, its suppliers or its licensors, as the case may be, on the Nimbus Solution, as provided to the Client by Nimbus, are in place and left intact at all times, and are placed in such location or locations as Nimbus may reasonably advise.

27. Publicity. The Client will work with Nimbus on a press release, mutually agreeable to both parties, announcing the relationship between the Client and Nimbus, and will issue such press release upon commercial launch of the Nimbus Solution.

28. Program Planning. Key personnel from Nimbus and the Client will meet at least once per semester to discuss, among other things, product development priorities and release dates, marketing plans, business health, End User experience with the Nimbus Solution, and Client's program expansion plans. If held in person, each party will bear their own travel and expenses for such meetings.

29. Reps & Warranties & Covenants. Each party represents, warrants and covenants that:

- (a) it has at the present time and will at all times during the Term have good and sufficient power, authority and right to enter into this Agreement;
- (b) by entering into this Agreement it does not violate any agreement, license or other instrument or duty to which it is a party or is bound; and
- (c) this Agreement constitutes a valid, binding and legally enforceable obligation of the party in accordance with its terms.

30. Client Reps & Warranties. When the Client distributes or submits the Student Data on or through the Nimbus Solution, the Client represents and warrants: (1) that the Client owns or otherwise controls all of the rights, including moral rights and Intellectual Property rights, to the Student Data; (2) that the Client can grant or has obtained all rights and consents that are necessary for the Client to grant any rights and licences described in this Agreement and relating to the Student Data to Nimbus, including the Student Data Licence; (3) that any and all access, use, submission, modification, transmission, creation of derivative works, adaptation, translation, hosting, bundling, arrangement, distribution and full exploitation of the Student Data will not infringe the rights of any third party and will not otherwise cause injury to any person or entity; and (4) that the Client will immediately notify Nimbus of any Student Data that does not comply with this Agreement or may infringe the rights of a third party or third parties.

31. Disclaimers & Limitations of Liability. THE PARTIES AGREE THAT:

- (a) THE LAWS OF CERTAIN JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR CONDITIONS OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO THE CLIENT, SOME OR ALL OF THE BELOW DISCLAIMERS, EXCLUSIONS OR LIMITATIONS MIGHT NOT APPLY TO THE CLIENT, AND THE CLIENT MIGHT HAVE ADDITIONAL RIGHTS.

- (b) THE CLIENT AGREES THAT THE NIMBUS SOLUTION AND NIMBUS'S CONFIDENTIAL INFORMATION, AND ALL INTELLECTUAL PROPERTY RELATING THERETO, ARE PROVIDED BY NIMBUS ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE CLIENT FURTHER AGREES THAT THE CLIENT'S ACCESS AND USE OF THE NIMBUS SOLUTION AND NIMBUS'S CONFIDENTIAL INFORMATION, AND ALL INTELLECTUAL PROPERTY RELATING THERETO, SHALL BE AT THE CLIENT'S SOLE RISK.
- (c) TO THE FULLEST EXTENT PERMITTED BY LAW, NIMBUS DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTEES AND/OR REPRESENTATIONS, EXPRESS, STATUTORY IMPLIED OR ARISING BY CUSTOM, COURSE OF DEALING OR TRADE USAGE, IN CONNECTION WITH THE NIMBUS SOLUTION AND NIMBUS'S CONFIDENTIAL INFORMATION, AND ALL INTELLECTUAL PROPERTY RELATING THERETO, AND THE CLIENT'S ACCESS TO AND USE THEREOF, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY, CONDITION, GUARANTEE AND/OR REPRESENTATION OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, PERFORMANCE, QUALITY, NON-INFRINGEMENT, SECURITY, ACCURACY, COMPLETENESS, SUITABILITY OR ANY IMPLIED WARRANTY, CONDITION, GUARANTEE OR REPRESENTATION ARISING FROM COURSE OF DEALING OR USAGE OF TRADE.
- (d) NIMBUS MAKES NO WARRANTIES, CONDITIONS, GUARANTEES OR REPRESENTATIONS ABOUT THE TRUTHFULNESS, USEFULNESS, ACCURACY OR COMPLETENESS OF THE NIMBUS SOLUTION AND NIMBUS'S CONFIDENTIAL INFORMATION, AND INCLUDING ALL INTELLECTUAL PROPERTY RELATING THERETO, OR THE AVAILABILITY, QUALITY, CHARACTERISTICS, LEGITIMACY, FUNCTIONALITY, SECURITY OR SAFETY OF ANY OF THE NIMBUS SOLUTION AND NIMBUS'S CONFIDENTIAL INFORMATION, AND INCLUDING ALL INTELLECTUAL PROPERTY RELATING THERETO, AND NIMBUS ASSUMES NO LIABILITY OR RESPONSIBILITY THEREOF.
- (e) NIMBUS ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (A) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM THE CLIENT'S ACCESS TO AND USE OF THE NIMBUS SOLUTION AND/OR NIMBUS'S CONFIDENTIAL INFORMATION, AND INCLUDING ALL INTELLECTUAL PROPERTY RELATING THERETO; (B) ANY UNAUTHORIZED ACCESS TO AND USE OF NIMBUS'S SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN; (C) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE NIMBUS SOLUTION (D) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE, WHICH MAY BE TRANSMITTED TO OR THROUGH THE NIMBUS SOLUTION BY ANY THIRD PARTY; AND/OR (E) ANY ERRORS OR OMISSIONS CONTAINED IN THE NIMBUS SOLUTION AND/OR NIMBUS'S CONFIDENTIAL INFORMATION, AND INCLUDING ALL INTELLECTUAL PROPERTY RELATING THERETO, AND/OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE ACCESS TO OR USE OF THE NIMBUS SOLUTION AND/OR NIMBUS'S CONFIDENTIAL INFORMATION, AND ALL INTELLECTUAL PROPERTY

RELATING THERETO.

- (f) IN NO EVENT SHALL NIMBUS BE LIABLE TO THE CLIENT OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY LOSS OR DAMAGE ARISING FROM, CONNECTED WITH, OR RELATING TO (1) THE NIMBUS SOLUTION AND/OR NIMBUS'S CONFIDENTIAL INFORMATION, AND INCLUDING ALL INTELLECTUAL PROPERTY RELATING THERETO, AND (2) THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, LOSS OF DATA, BUSINESS, BUSINESS INTERRUPTION, MARKETS, SAVINGS, INCOME, PROFITS, USE, PRODUCTION, REPUTATION AND/OR GOODWILL, ANTICIPATED OR OTHERWISE, AND/OR ECONOMIC LOSS, UNDER ANY THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY OR LAW OR EQUITY), REGARDLESS OF ANY NEGLIGENCE OR OTHER FAULT OR WRONGDOING (INCLUDING WITHOUT LIMITATION GROSS NEGLIGENCE AND FUNDAMENTAL BREACH) BY NIMBUS OR ANY PERSON FOR WHOM NIMBUS IS RESPONSIBLE, AND EVEN IF NIMBUS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE BEING INCURRED. IN THOSE JURISDICTIONS THAT DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH JURISDICTIONS, THE LIABILITY OF NIMBUS SHALL BE LIMITED TO THE FULL EXTENT PERMITTED BY LAW.
- (g) THE CLIENT HAS SOLE RESPONSIBILITY FOR ANY DECISIONS THE CLIENT MAKES BASED ON INFORMATION CONTAINED IN THE NIMBUS SOLUTION AND/OR NIMBUS'S CONFIDENTIAL INFORMATION, AND INCLUDING ALL INTELLECTUAL PROPERTY RELATING THERETO.
- (h) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE CLIENT ACKNOWLEDGES AND AGREES THAT ITS SOLE AND EXCLUSIVE REMEDY FOR ANY DISPUTE WITH NIMBUS IS TO STOP USING THE NIMBUS SOLUTION.
- (i) NIMBUS WILL NOT BE RESPONSIBLE FOR ANY DAMAGES THE CLIENT OR ANY THIRD PARTY MAY SUFFER AS A RESULT OF THE TRANSMISSION, STORAGE OR RECEIPT OF THE CONFIDENTIAL OR PROPRIETARY INFORMATION THAT THE CLIENT MAKES OR THAT THE CLIENT EXPRESSLY OR IMPLICITLY AUTHORIZES NIMBUS TO MAKE, OR FOR ANY ERRORS OR ANY CHANGES MADE TO ANY TRANSMITTED, STORED OR RECEIVED INFORMATION OR RESULTS.
- (j) NIMBUS'S TOTAL AGGREGATE LIABILITY TO THE CLIENT OR ANY THIRD PARTIES IN ANY CIRCUMSTANCE IS LIMITED TO THE GREATER OF (A) THE AMOUNT OF FEES THE CLIENT PAID TO NIMBUS; AND (B) \$100. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO THE CLIENT.
- (k) IN ADDITION, NO ADVICE OR INFORMATION (ORAL OR WRITTEN) OBTAINED BY THE CLIENT FROM NIMBUS SHALL CREATE ANY WARRANTY.

- (I) THE CLIENT AND NIMBUS AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE NIMBUS SOLUTION AND/OR NIMBUS'S CONFIDENTIAL INFORMATION, AND INCLUDING ALL INTELLECTUAL PROPERTY RELATING THERETO, OR THIS AGREEMENT, MUST COMMENCE AND BE FILED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION AROSE; OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

32. Release. The Client releases and forever discharges Nimbus from and against any and all demands, causes of action, liability and claims, at law or in equity, of any nature or kind, including, without limitation, that the Client, or its successors or assigns, can, has ever had, now or may hereafter have arising out of or connected in any way with the Nimbus Solution and/or the Confidential Information, and all Intellectual Property relating thereto.

33. Indemnity. Except if caused by the negligent act or omission of Nimbus, the Client shall indemnify and hold harmless Nimbus from and against any and all claims, damages, losses, expenses or liability of any kind whatsoever from third parties relating to:

- (a) the Client's breach of any provision, representation, warranty or covenant of this Agreement; or
- (b) any loss, injury, death, damage, expense, charge or cost that Nimbus may suffer or incur, whether in respect of injury to persons or damage to its property, end-users, or others in any manner that arises out of, or is attributable to the use or access by the Client of the Nimbus Solution and/or Nimbus's Confidential Information, and all Intellectual Property relating thereto, or any other item provided by Nimbus hereunder;

34. Termination. The parties agree that:

- (a) This Agreement may be terminated by either party if:
 - (i) the other party is in material breach of this Agreement and the breach is not cured within sixty (60) days after written notice of the breach, in which case the non-breaching party may terminate this Agreement upon written notice of its desire to terminate due to the breach not having been cured; or
 - (ii) the other party files a petition in bankruptcy, or enters into an agreement with its creditors, or applies for or consents to the appointment of a receiver, administrative receiver, trustee or administrator, or makes an assignment for the benefit of creditors, or suffers or permits the entry of any order adjudicating it to be bankrupt or insolvent and such order is not discharged within sixty (60) days, or takes any equivalent or similar action in consequence of debt in any jurisdiction.
- (b) For purposes of this Section, any failure to pay any undisputed amounts hereunder when due shall be deemed to be a material breach of this Agreement.
- (c) The Client shall have the right to terminate this Agreement immediately, on written notice to Nimbus, upon the success of a third party legal action challenging Nimbus's ownership of the Nimbus Solution

- (d) The termination or expiration of this Agreement shall not relieve the Client of the obligation to pay any fees accrued prior to the effective date of termination or expiration as specified in Schedule A attached hereto.
- (e) Where either party is given a right to terminate hereunder and does not exercise the same, such forbearance shall not be deemed to be a waiver of such party's right to terminate upon any subsequent or future event by which such party has, or is provided with, the right to terminate this Agreement.

35. Effect of Termination. In the event of termination or expiration of this Agreement for any reason:

- (a) The Client shall forthwith deliver to Nimbus, without charge, Nimbus's Confidential Information, the Nimbus Solution, and all Intellectual Property relating thereto, including all copies, and the Client shall certify to Nimbus that no copies of such material have been retained and have been destroyed.
- (b) Nimbus shall forthwith deliver to the Client, without charge, the Client's Confidential Information, and all Intellectual Property relating thereto, including all copies, and Nimbus shall certify to the Client that no copies of such material have been retained and have been destroyed.
- (c) The termination or expiration of this Agreement will terminate all licences granted under this Agreement relating to the Client Marks and the Nimbus Solution, including the Licence and all sublicense agreements granted by the Client to the End Users. The Client's access and use to the Nimbus Solution shall be disabled. The Student Data Licence shall continue.
- (d) The Client shall immediately cease any and all access and use of the Nimbus Solution and Nimbus's Confidential Information and any other item provided by Nimbus hereunder, and any Intellectual Property relating thereto, disclosed or provided by Nimbus to the Client in any manner whatsoever.
- (e) Nimbus shall immediately cease any and all access and use of the Client Marks and the Client's Confidential Information, and any Intellectual Property relating thereto, disclosed or provided by the Client to Nimbus in any manner whatsoever. Notwithstanding the preceding sentence, Nimbus shall be permitted to continue to use the Client Marks on its Collateral Material.
- (f) The Client shall remove the Intellectual Property of Nimbus from all Collateral Material in its possession or control under which such Intellectual Property appears.
- (g) The Client agrees that Nimbus has the right to notify any persons it deems necessary or appropriate as to the termination or expiry of the rights granted hereunder.

36. Survival. Any indemnity or any obligation of confidence under this Agreement is independent and survives termination or expiration of this Agreement. All obligations under this Agreement that necessarily extend beyond termination or expiration of this Agreement in order to fully achieve their intended purpose shall survive termination or expiration of this Agreement, including without limiting the generality of the foregoing, all indemnification provisions,

intellectual property provisions, confidentiality provisions, licence provisions, representations, warranties, covenants, ownership provisions, disclaimers and limitation of liability provisions.

37. Duties of Confidentiality. The parties agree that during and after the termination or expiration of this Agreement:

- (a) The Receiving Party will not use Confidential Information other than for the purpose of exercising its rights and performing its obligations under this Agreement. The Receiving Party will maintain the Confidential Information in confidence and not disclose that information to any third party, other than its Representatives who have a need to know the Confidential Information for the purposes permitted herein.
- (b) The Receiving Party shall make no further use of the Confidential Information upon the return or the destruction of the Confidential Information.
- (c) The Receiving Party shall not nor will it assist any other person, directly or indirectly, at any time, to (1) use for itself or others, or divulge to others, the Confidential Information; nor (2) use, publish or sell for its own purposes or for any purpose, other than to carry out its obligations under this Agreement, the Confidential Information.
- (d) The Receiving Party shall take all steps and do all things necessary to preserve the value, confidential nature and proprietary nature of the Confidential Information.
- (e) The Receiving Party shall immediately notify the Disclosing Party of any use, disclosure, transfer or transmission of the Confidential Information or any part thereof which is not in accordance with the terms of this Agreement.
- (f) The Receiving Party shall take all reasonable steps to prevent the accidental or intentional disclosure of the Confidential Information to third parties and shall comply with any reasonable request of the Disclosing Party with regard to the safeguarding of the Confidential Information.
- (g) Upon termination or expiration of this Agreement, or otherwise upon demand of the Disclosing Party, the Receiving Party will deliver to the Disclosing Party all copies, whether written, in the form of computer data or otherwise, of the Confidential Information and all documents and materials prepared by or for the Receiving Party which include or refer to Confidential Information and the Receiving Party will delete all Confidential Information from any computer system, retrieval system or database of the Receiving Party. The Receiving Party will cause all third parties to whom it has provided any Confidential Information to comply with this Section and, if requested by the Disclosing Party, the Receiving Party will provide to the Disclosing Party a certificate of a senior officer of the Receiving Party confirming that the Receiving Party and those third parties have complied with the provisions of this Section.
- (h) Notwithstanding the termination or expiration of this Agreement or any demand by the Disclosing Party for the return of its Confidential Information:
 - (i) the Receiving Party may retain Confidential Information if necessary to comply with Laws or the requirements of any Governmental Authority;

- (ii) the Receiving Party is not required to delete Confidential Information contained in computer archives or back-ups, provided that if any archives or back-ups are used to restore the Receiving Party's computer systems or are otherwise used by the Receiving Party in a live, production environment, the Receiving Party will at that time delete the Confidential Information contained in those archives or back-ups; and
 - (iii) if the Disclosing Party requires the Receiving Party to return any Confidential Information that is required by the Receiving Party in the performance of any obligation under this Agreement, the Receiving Party shall be released from its obligation to perform that obligation to the extent its ability to do so is affected by the return of that Confidential Information.
- (i) The Receiving Party will not be in breach of this Agreement as a result of any disclosure of Confidential Information required by law or judicial or administrative process, provided that the Receiving Party provides the Disclosing Party with as much notice as is reasonably possible in the circumstances prior to disclosing any Confidential Information and cooperates with the Disclosing Party in any application, proceedings or other action undertaken by the Disclosing Party to obtain a protective order or other means of protecting the confidentiality of the Confidential Information required to be disclosed.
- (j) The obligations of this Section shall not extend to information: (i) which at the time of the disclosure by the Disclosing Party to the Receiving Party is publicly available, or which subsequently becomes publicly available through no act or omission of the Receiving Party; (ii) which is lawfully and in good faith obtained by the Receiving Party from an independent third party without breach of this Agreement, as shown by documentation establishing the third party as the source of the information, and not obtained by the third party from the Disclosing Party; (iii) which the Receiving Party can establish, by written record or other tangible evidence, was in its possession prior to disclosure of that information by the Disclosing Party to the Receiving Party; or (iv) which is independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information.

38. Infringement. The parties agree that:

- (a) The Client and Nimbus shall promptly notify each other in writing of any conflicting use, act of infringement or appropriation that comes to their attention regarding the Nimbus Solution, the Results, the Confidential Information, the Client Marks, the Student Data, and all Intellectual Property relating thereto, and shall provide any evidence relating to same which is reasonably available.
- (b) In such cases where it is alleged that a third party is infringing the Intellectual Property rights of Nimbus, Nimbus shall have the sole right, but not the obligation, at Nimbus's sole cost and expense, (i) to bring an action for infringement against the alleged infringer or to take steps as it may deem necessary in order to terminate such conflict, infringement or appropriation; or (ii) to investigate, defend, litigate and settle any such complaint. Nimbus may in its sole discretion settle any action or complaint as it sees fit. Any damages or sums recovered by Nimbus in such action or complaint or any settlement thereof shall

be retained by Nimbus. The Client shall not at any time settle any such action or complaint without first obtaining the written consent of Nimbus.

- (c) The Client shall cooperate fully with and assist Nimbus to the fullest extent possible on any such action or step and in the event of any such complaint and execute such documents and do such other acts and things as in the opinion of Nimbus may be necessary, including to testify when requested by Nimbus, and to make available any records, papers, information, specimens, and the like.

39. Governing Law. This Agreement will be governed by and construed in accordance with the Laws of the Province of Ontario and the Laws of Canada applicable therein, without regard to conflicts of laws principles. This Agreement will be deemed to be made in the Province of Ontario and, subject to Section 40, Nimbus and the Client hereby submit to the exclusive jurisdiction of the courts of the Province of Ontario for any legal action arising out of or related to this Agreement and agree not to commence any action, suit or proceeding in any jurisdiction other than the Province of Ontario. Notwithstanding the foregoing, either party may apply to the court to obtain injunctive relief and any other available equitable or legal remedy regarding any matter relating to their confidentiality or proprietary rights.

40. Other Remedies. Except as expressly provided herein to the contrary, the exercise of a right of termination or any other right or remedy by either party shall be without prejudice to such party's right, subject to the limitations set forth in this Agreement, to pursue any other right or remedy available hereunder or under applicable law.

41. Compliance with Law. Each party will perform its obligations under this Agreement in a manner that complies with all Laws applicable under this Agreement, including, all Laws applicable which may affect the use of the Nimbus Solution, or its obligations hereunder this Agreement. Each party will promptly notify the other party if it receives a written allegation of non-compliance with any such Law by any person.

42. Force Majeure. Notwithstanding anything to the contrary contained herein, a failure or delay in performance by a party shall be excused to the extent caused by a Force Majeure Event provided that, the affected party notifies the other party promptly and in detail of the commencement and nature of such Force Majeure Event, and provided further that the affected party uses its commercially reasonable efforts to render performance in a timely manner utilizing to such end all resources reasonably required in the circumstances.

43. General. The parties are independent contractors. Nothing in this Agreement will be deemed to create a partnership or joint venture or a relationship of principal and agent, employer-employee, master-servant, or franchisor-franchisee among or between the parties. To the extent that any provision of this Agreement is deemed to be invalid, illegal or unenforceable, such provision will be severed and deleted or limited so as to give effect to the intent of the parties insofar as possible and the parties will use commercially reasonable efforts to substitute a new provision of like economic intent and effect for the illegal, invalid or unenforceable provisions and the remainder of this Agreement will remain binding upon the parties. Each party will each bear its respective legal fees, accounting fees, and other costs and expenses incurred in connection with the transactions contemplated by this Agreement. All rights and remedies of each party under this Agreement are cumulative and may be exercised at any time and from time to time, independently or in combination. No party shall be bound by any waiver of any provision of this Agreement unless such waiver is consented to in writing by that party. No waiver of any provision in this Agreement shall constitute a waiver of any other provision, nor shall any waiver constitute a continuing waiver unless otherwise provided. The parties shall

execute and deliver, or cause to be executed and delivered, upon written request, any and all further documents and do all acts and things or cause such acts or things to be performed which may be necessary or desirable to give effect to the terms of this Agreement.

44. Assignment & Enurement. The Client may not assign, transfer or encumber this Agreement, or any of its rights or obligations hereunder, without the prior written consent of Nimbus. Any attempted assignment, transfer or encumbrance without the required consent shall be void. The consent of Nimbus to any assignment of this Agreement shall not constitute Nimbus's consent to a further assignment. Notwithstanding this Section, this Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, executors, personal representatives, successors and permitted assigns.

45. Injunctive Relief. Notwithstanding this Agreement, any breach of the Articles titled DUTIES OF CONFIDENTIALITY, IP OWNERSHIP, ASSIGNMENT OF IP, WAIVER, AND IP NOTICES is a breach of this Agreement that may cause serious and irreparable harm to Nimbus. Any such breach will entitle Nimbus to injunctive relief, in addition to all other legal or equitable remedies that may be available.

46. Notices. Any notice required or authorized under this Agreement to be given by either party to the other party shall be in writing and may be delivered in person or by courier, transmitted by facsimile or via email, or sent by prepaid registered mail, and addressed to the addresses described above or such other parties or such other addresses as either party shall notify the other party in writing. Any notice given shall be deemed to be received on the date of delivery by person, by courier or by transmission by facsimile, as the case may be, or on the seventh day from the date of mailing. Any notice sent via email shall be deemed to be received on the date of transmission if confirmation of delivery is obtained and if such notice is also given by courier.

47. Anti-Spam Consent. In the event that Canada's Anti-Spam Legislation applies to the installation of the Nimbus Solution and related upgrades, Nimbus hereby seeks and the Client hereby provides consent to Nimbus for such installation and potential future upgrades installation so that the Client may use the Nimbus Solution, provided that the Client may revoke such consent at any time. The function and purpose of the Nimbus Solution that is to be installed or may have upgrades is described in this Agreement. The mailing address and contact information for Nimbus is noted in this Agreement.

48. Counterparts and Electronic Execution. This Agreement may be executed by the parties in several counterparts, including executed counterparts delivered by electronic communication, each of which will be deemed to be an original, but all of which taken together will constitute one and the same instrument. A party's transmission by electronic means of a copy of this Agreement duly executed by that party shall constitute effective delivery by that party of an original executed copy of this Agreement to the party receiving the transmission.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF the parties have signed this Agreement as of the Effective Date.

Nimbus Learning Inc.

Trent Central Student Association

Per: _____

Per _____
:

Name: Ben Attal

Name: Tracy Milne

Title: COO

Title: Operations & Services Manager

SCHEDULE A

FEES

License & Support Services Fees

1. The fees payable by the Client for the licences and rights granted under this Agreement and for the Support Services are as follows:

- (a) **The Client agrees to pay an annual licence fee in the amount of \$1.90 per student enrolled at Trent University upon the Effective Date for a total aggregate amount of \$14,080.**
- (b) **Group Study Sessions will be included for free in the first year of the Agreement, as described in Schedule B. However this feature will not be included in the above price listed in (a) for the Renewal Term.**

2. The Client shall be responsible for all fees set out in this Schedule irrespective of whether the Nimbus Solution and/or the Support Services were used by the Client or any of its End Users.

SCHEDULE B

SUPPORT SERVICES

1. Nimbus shall provide the following Support Services to the Client:

- On-call customer support for End Users (as described below).
- Program design, implementation, and training.
- Graphic design and organic program promotion.
- Support for subsidized tutoring programs.
- Support for online and in-person tutoring, with web-based virtual tutoring and shared whiteboard.
- Multiple contributors to tutoring programs (subsidies, credits, splitting of roles).
- Unlimited tutor recruitment and interviewing provided by Nimbus
- For the first year of the Agreement: Support for group study sessions and workshops

Availability of Technical Support Services

2. Nimbus shall provide technical support to the Client via telephone support at +1-866-804-3406. Nimbus shall assist the Client with questions or problems regarding the use of the Nimbus Solution.

3. Nimbus shall provide telephone support 24 hours a day, 7 days a week, 365 days a year.

4. If and when the Client determines that an incident has occurred that requires the Client to contact Nimbus for Support Services, the Client will promptly provide notification to Nimbus as provided in this Schedule B. Such notification will include:

- (a) contact information for the person reporting the incident (phone #, ID and email address);
- (b) time and date the incident became apparent;
- (c) description of the incident, including sufficient details to troubleshoot the incident; and
- (d) any other information that the Client deems applicable.