IN THE MATTER OF AN ARBITRATION PURSUANT TO SECTION 55 OF *THE LABOUR RELATIONS CODE*, RSBC 1996, C. 244

BETWEEN:

UNIVERSITY OF NORTHERN BRITISH COLUMBIA

("UNIVERSITY")

AND:

UNIVERSITY OF NORTHERN BRITISH COLUMBIA FACULTY ASSOCIATION

("FA")

REPLY OF THE UNIVERSITY OF NORTHERN BRITISH COLUMBIA

INTRODUCTION

1. These are the University's reply submissions ("Reply").

2. In the Reply, the University uses terms defined in its original submissions ("University Submissions").

3. In all matters, the University continues to rely on its initial submissions.

4. The FA acknowledges in its submissions ("FA Submissions") that:

    a. During the term of the Faculty Agreement, the FA enjoyed *de facto* recognition as sole bargaining agent, with negotiating and grievance rights more usually associated with unionized associations (and in some cases stronger than those of faculty associations at other research universities in British Columbia) (at para. 1.3.7, see also para. 5.2.2.viii);

b. Even on the FA's view of what constitutes "the University sector" - a view which ignores all the other research universities established under the *University Act* and, indeed, all other BC universities - much of the Faculty Agreement already represented "sector-norm" terms and conditions of employment (at paras. 1.3.8 and 10.3); and

c. During bargaining for the First Collective Agreement, the FA achieved further "sector-norm" provisions in connection with 54 signed-off articles (at para. 1.3.22, see also para. 10.4).

5. The FA seeks to use the section 55 process to make significant gains it did not achieve either during Faculty Agreement negotiations or during bargaining for the First Collective Agreement.

6. The FA seeks to make such gains in the face of its own admission that under the Faculty Agreement, it enjoyed rights akin to those of a union. In view of the FA's admission, there were no pre-certification "great imbalances of power between parties" (in the wording of *Yarrow* at 58) which must be remedied in this arbitration.

7. In this regard, the FA suggests at 5.2.2 that a "modest award" is not appropriate here because of the Parties' "long history of bargaining". In other words, although the FA and the University have been active – and, the University says, equal – participants in creating the existing terms and conditions of employment, that history should now be set aside.

8. In support of this position, the FA relies on *Diversified Transportation Ltd.* v. *Teamsters Local No. 31* ("*DTL*").

9. *DTL*, which concerned the terms and conditions of employment for school bus drivers in the Prince George School District, is readily distinguishable. It did not involve either a long history of bargaining between the two parties or a mature agreement which was the product of such bargaining and specific to their relationship.

10. DTL had obtained the contract to operate school buses in the Prince George district beginning in September, 2003. The previous operator was Laidlaw, which was a party to a collective agreement with the Teamsters. All of Laidlaw's drivers were laid off in June, 2003. When DTL advertised for drivers, many of Laidlaw's former drivers applied for work with DTL and were hired.

11. Due to an accretion clause in a collective agreement between DTL and the Christian Labour Association of Canada ("CLAC") which applied to DTL's school bus drivers in the Fort Nelson School District, CLAC became the certified bargaining agent for DTL's school bus drivers in Prince George.

12. Following mediation, Arbitrator Gordon was appointed under section 55 of the *Code* to resolve a handful of outstanding issues. The issues included whether a driver would earn a guaranteed daily minimum of four hours pay for driving students to and from school on a split shift basis, once in the morning and again in the afternoon, or whether the driver was entitled to a minimum of two hours pay each time he or she reported for work. Another issue was whether incidental paper-work, and bus washing and fuelling, had to be performed by drivers during regular run times or during make-up time at the end of the run.

13. Arbitrator Gordon noted at paragraph 40 of her Award that she was not dealing with a typical first collective agreement situation. At the time, DTL and its associated company, Standard Bus, were delivering school busing services to several school districts in BC. All of DTL's operations in BC were unionized and it was conducting similar operations in other school districts under collective agreements with several trade unions, including CLAC. Before 1991, Standard Bus held the school bus contract in Prince George at which time it was also a signatory to a collective agreement with CLAC.

14. In the result, Arbitrator Gordon's award was modest. In the LRB's review decision, Vice Chair Brown expressly disagreed (at para.31) with DTL's assertion that Arbitrator Gordon had approached the situation as if the parties were in a mature bargaining relationship. He commented that in order to assess how she reached her decision, her award must be read as a whole.

15. The facts in DTL are wholly unrelated to the facts here. Here, the Parties have been in a long-term bargaining relationship; one that matured in and reflected the specialized circumstances which existed for many years at the BC research universities continued under the *University Act*. The University has described those specialized circumstances in the University Submissions.

16. Unlike the situation in *DTL* and, by definition, the situation that would be typical in a case heard under section 55, the existing terms and conditions of employment which govern these Parties are the product of direct and oft-repeated bargaining between them.

17. In light of the foregoing and for the further reasons given below, the FA's final proposals ought not to be ordered in this inherently conservative process.

THE APPLICABLE FACTORS

THE UNIVERSITY'S FINANCIAL CIRCUMSTANCES

18. In the FA Submissions, they say: "[a]t no point did the Employer claim institutional poverty or inability to pay for the proposals of the UNBC-FA.... Should the Employer attempt to claim financial difficulty in its arbitration brief, the UNBC-FA shall be prepared to respond in detail in its response brief" (see para. 6.9).

19. In fact, the University referred to its adverse financial circumstances and its enrollment challenges at bargaining on both February 25 and 26, 2015 and again on both March 4 and 5, 2015. Faculty compensation was the subject matter of bargaining on each of these dates.

20. At a minimum, for the above and the following reasons, the FA should have known that the University's financial circumstances and the substantial cost of the FA's proposals would be live issues in this arbitration:

    a. Further to *Yarrow*, an employer's financial state is a "critical factor" for a section 55 arbitrator (at 35);

    b. The University had raised its financial circumstances, including its enrollment pressures, at bargaining on multiple occasions;

    c. In the months before the Parties filed their submissions, the FA demanded disclosure of information and documents relating to the University's economic circumstances. Such requests included particulars of transfers to and the balances of internally restricted University reserve funds and requests for revisions to the University's costings of the FA's proposals. The document disclosure and information sought by the FA would only be relevant if the FA anticipated the University would address the substantial cost of the FA's proposals and the University's financial circumstances in its submissions;

    d. Information about the negative pressures on the University's two main revenue sources is also publicly available: see http://www.unbc.ca/sites/default/files/sections/finance/budgets/2015-16budgetplanningframeworkapproved.pdf.

e. In addressing the final *Yarrow* factor, the FA does in fact make submissions about select aspects of the University's financial circumstances:

- The University's sources of funding (at paras. 6.14-6.15); and
- The PSEC Mandate (at paras. 6.16 – 6.22).

Those matters would only have seemed relevant to the FA if the FA expected the University to raise its financial circumstances and the cost of the FA proposals in its submissions.

21. The effect of the FA's approach is, therefore, to split the FA's case by avoiding a subject area it was required to address in its initial submissions. This approach effectively denies the University a reply to the FA Submissions on the University's finances.

THE TERMS AND CONDITIONS OF EMPLOYEES PERFORMING SIMILAR WORK

22. The most notable aspect of the FA Submissions regarding the terms and conditions of employees performing similar work is the FA's wholesale failure to provide any information or make any submissions about the terms and conditions of faculty employment at any other BC research university.

23. In the FA Submissions, in which the FA attempts to establish "norms" in the University sector, it refers exclusively to certain extra-provincial universities (see e.g. paras. 3.1.4.viii, 5.3.1 – 5.3.6, 5.3.7.x – 5.3.9.vi, 5.3.10.viii, 5.3.10.x, 5.6.1.i., 5.6.2.i, 5.7.1.i, , 5.7.1.iii, 5.11.2, 5.11.3 and associated figures, and 6.6).

24. The FA takes this approach despite the following:

a. The FA was aware that in Arbitrator Ready's Award, after the 2013/2014 interest arbitration, he expressly accepted BC research universities as comparators (see the University Submissions at paras. 180-181). The FA simply fails to acknowledge Arbitrator Ready's findings about the appropriate comparators (see FA Submissions at Figure 4);

b. In the FA Submissions (at para. 2.1.1.v), the FA cites authorities that accept the importance of geographic proximity when determining comparators. For example, the FA sets out the following passage from an award of Arbitrator Picher:

> *...the exercise becomes primarily comparative. It is reasonable to assume that the parties would have made a collective agreement generally comparable to others in the same industry and geographic area. A first point of reference, therefore, is the collective agreements which have been freely negotiated between similarly situated Unions and employers within the same industry and within the same or similar locations.*
>
> [Emphasis added.]

c. The FA acknowledges that the Members' terms and conditions of employment had originally been based on those of faculty members at other BC research universities: UBC, SFU, and UVic (see paras. 1.3.3 and 5.2.2.ix).

25. The FA appears to argue its case from the flawed proposition that only small undergraduate universities listed in *Maclean's* are appropriate comparators (see e.g. paras. 3.1.1.ii, 3.1.1.vii, and 3.1.2.iv).

26. It is inexplicable that, on the one hand, the FA acknowledges that its Members' terms and conditions of employment were originally based on those of faculty members other BC research universities, but, on the other hand, then refers only to undergraduate extra-provincial universities listed in a ranking system prepared by a magazine.

27. As a result, there is a significant information gap in the FA's submissions. None of the FA's arguments regarding "sector norms" reflect any of the highly relevant information which is available to this arbitration board about the situation at other BC research universities, or, indeed, the situation at any other BC university.

28. In bargaining, the University used comparators based on its status as a BC research university. While the University also acknowledges the national context and its small size are considerations, it gave the greatest weight to research universities in BC, such as UVic, SFU, and, to a lesser degree, UBC, because that is what the University is.

29. In this regard, the University Submissions reviewed relevant information from both research universities in BC and those extra-provincial universities which were used as comparators by the University's administration during collective bargaining (see, e.g., paras. 187 and 189).

30. The University Submissions show that, among other things:

a. Merit-based compensation is common at BC research universities and universal at the other research universities continued under the *University Act*;

b. The key issue to be addressed in connection with Members' compensation is the structure of the CDI system at the University. Salary floors at each rank are roughly average for BC universities with research as part of their mandate and slightly below average when extra-provincial comparators are taken into account (University Submissions at para. 189);

c. Recent GWIs at the comparators have been moderate; and

d. UVic's Faculty Association, which had also recently certified, settled its first collective agreement at the PSEC Mandate.

THE FA'S RELIANCE ON BARGAINING HISTORY IS MISPLACED

31. The FA relies heavily on its characterization of what is said to have occurred during the bargaining towards the First Collective Agreement. It does so in support of a submission that this arbitration board ought, in the main, to award the FA's final proposals including its salary grid proposal (see, e.g., FA Submissions at paras. 1.3.1 – 1.3.31, 5.2.3.i – 5.2.3.iii, 5.3.6.iii, 6.5, and 10.7).

32. The University does dispute some parts of the FA's characterization of bargaining. As only one example, the University denies that it "tabled proposals in July 2014 that departed radically from both the sector norm and from the Faculty Agreement" (at para. 1.3.13). The University presented proposals which were based on research into faculty contracts from appropriate comparators.

33. More significantly, however, *Yarrow* simply does not identify either bargaining history or the identity of the party which filed a section 55 application as relevant considerations for an arbitration board appointed under section 55.

34. The University simply exercised its statutory entitlement to file a section 55 application. As a matter of both jurisdiction and principle, this arbitration board ought not to order the FA's proposals—many of which would represent

breakthroughs—because the University exercised its right to invoke a dispute resolution process provided for by the *Code*.

THE OUTSTANDING MATTERS IN DISPUTE

35. The FA relies on the concept of "demonstrated need" (see FA Submissions at paras. 1.1.3.ii – 1.1.3.vi), in support of its assertion that its final proposals ought to be awarded in large part, while none of the University's ought to be awarded. The concept of demonstrated need has little if any role to play in this arbitration:

    a. As previously mentioned and as is discussed further below, the FA fails to include information about any other BC research universities in any of its submissions about the articles for which it contends there is a "demonstrated need". For that reason, the FA has failed to provide the information which would be required to demonstrate the need for any of its proposals. Its submissions rely on the flawed underlying proposition that its proposals represent "sector norms"; and

    b. In connection with the University's compensation proposals, the University's final offer represented significant monetary gains for the Members. The balance of the University's final proposals largely involved continuing the *status quo ante* under the Faculty Agreement. The few exceptions were to respond to specific and measured concerns the University had about problems that had arisen during the term of the Faculty Agreement. One example is the two measures the University proposed to ensure the neutrality of external referees in the tenure and promotion process (see the University Submissions at paras. 253-254).

36. In the FA Submissions at paras. 1.1.3.vii – 1.1.3.ix, the FA seeks to return to a numbering scheme used by the Parties in the Faculty Agreement rather than to continue with the numbering system which developed and was used by the Parties in bargaining for the First Collective Agreement. As is evident from the matters – both agreed and outstanding - before this arbitration board, the Parties signed off on numerous articles reflecting a new numbering system for the First Collective Agreement. The signed-off articles included articles that had not been in the Faculty Agreement. The University expended considerable time and effort on the numbering system that was used at bargaining. That system should be maintained as it is cohesive and may be readily adapted to the inclusion of additional material.

THE APPROPRIATE TERM FOR THE FIRST COLLECTIVE AGREEMENT

37. In the course of the FA Submissions, the FA contends that "UNBC can afford to pay its faculty fairly, but chooses not to do so" (at para. 6.23).

38. The above assertion reflects the heightened rhetoric that has been present throughout bargaining for the First Collective Agreement and during the FA strike. The substantial divide that has arisen between the parties during the almost four years of continuous bargaining between the University and the FA will take some time to close. For this reason, a five-year term for the First Collective Agreement is appropriate.

39. In the University's proposals in collective bargaining, it made a good-faith effort to respond to the FA's concerns about the inadequacy of compensation for Members as they progress through the ranks; in particular, by addressing issues with the University's CDI structure. The University's final offer significantly exceeded the GWIs provided for in the PSEC Mandate.

40. Contrary to the FA's assertion that there was nothing in the University's proposal on compensation to distinguish it from offers previously made to the pre-certification FA (FA Submissions at para. 5.2.3.ii), the University's final offer on compensation proposed enhancing the CDI system to address the FA's concerns about the CDI structure and progress through the ranks. The University had not made such a proposal to the FA pre-certification. As arbitrator Ready indicates in the Ready Award, during the last round of pre-certification bargaining, the University had offered a GWI of 2% in each year of a two-year term.

41. This is not a matter of the University choosing not to "pay its faculty fairly"; it is a disagreement about:

    a. What compensation model represents "fair pay" at a BC research university; and

    b. How much the University can offer within the financial constraints which arise from both the decline in its two major revenue sources and the limits represented by the PSEC Mandate.

42. The lock-step, seniority-based compensation model proposed by the FA does not reflect the "sector norm" at BC research universities continued under the *University Act*. In addition, it has the inequitable result of distributing compensation with a high

degree of variability without consistent reference to achievement recognized through promotion.

43. In response to the FA's assertion that if this arbitration board orders an agreement of longer than two years, it ought to order various breakthrough provisions sought by the FA, the University simply notes that further to *Yarrow*, the relevant consideration in determining the term of a first collective agreement is the need for time to "heal the wounds of a fresh dispute and… assist in building a future relationship". The LRB did not find in *Yarrow* that in ordering a term of at least two years from the date of the award, arbitrators should order different terms and conditions of employment than if they had ordered a shorter term.

44. In this regard, while it is not a matter about which a section 55 arbitrator can make an order, the University believes that a recommendation to the parties to participate in the Relationship Enhancement Program offered by the Mediation Division of the Labour Relations Board would be a useful adjunct to the award of a five-year term.

THE OTHER OUTSTANDING MATTERS IN DISPUTE

45. In the University Submissions, the University identified some FA proposals which Arbitrator Ready declined to award in the Ready Award (see the University Submissions at paras. 212-213). The FA has noted additional FA proposals which Arbitrator Ready declined to award (see FA Submission at paras. 1.1.3.vi, 5.10.7, and 7.1.1).

46. The University says that Arbitrator Ready's rationale for declining to award these proposals – they were matters the parties should negotiate – remains valid. There is no compelling reason, given that the provisions in question are the product of a long history of direct bargaining between the parties, to relieve the parties from that obligation.

<u>Article 48/I-1 (Compensation) and Article 21/E-2D (Awarding of ECDIs)</u>

General Comments

47. The weight to be given to the FA Submissions on this, as on other outstanding proposals, is limited by the FA's failure to provide any information about the terms and conditions of employment, including compensation systems, at the other BC research universities (see e.g. FA Submission Figures 5-19 and 23-37).

48. The FA Submissions about the supposedly limited costs of its salary grid proposal are also misguided. The FA says that its salary grid proposal is "modest" (see e.g. paras. 5.2.2.ii and 5.7.2.vvii). However:

a. As the University noted in its original submissions, the University has costed FA's proposals for Article 48 alone at $19,466,272 over five years. $18,081,113 of that amount is attributable to remapping the salary remapping: **UBOD, volume 2, Tab 17**. These costs would not end at five years, as the FA's compensation proposal represents ongoing obligations. In this regard, it should also be noted that the FA appears to have included the wrong costing in their Book of Evidence. At Tab A-15, the FA includes the costing for their March 14, 2015 proposal but at Tab b-1, the FA includes their February 26, 2015 proposal. The University understood and understands that the relevant proposal is the February 26, 2015 proposal. The costing to which it referred in its submission is the costing for that proposal;

b. Even assuming—as the FA contends—that most of the Members who would see salary increases in excess of $20,000 will retire in the near future (see FA Submissions at para. 5.7.2.vvii), there would still be a substantial ongoing future cost associated with the FA's proposal because over time, more junior Members would advance through the new salary grid.

49. The result of ordering the FA's compensation proposals in relation to full-time Members would be:

a. A salary grid which is not found at any other research university continued under the *University Act*, all of which use salary structures that incorporate merit-based compensation both in the tenure and promotion process and through the award of CDIs and merit pay.

The award of Arbitrator Sims, on which the FA relies heavily, describes the salary model at universities generally as one that "provides opportunities at times to withhold or accelerate advancement based on performance" (FA Submissions at para. 5.3.10.ii). The FA's proposal is contrary to such a model.

b. Members who had failed to meet the requirements to be promoted to a new rank would in some cases receive substantial increases in compensation while Members who had met the requirements for promotion would not. In the

University's submission, this would not be fair and equitable at a research university with its focus on rewarding excellence and achievement.

c. Compensation for Members under the FA's salary grid would meet or exceed the compensation for similarly situated employees at internationally ranked BC research universities. For example, based on the available information, the salary floor for a professor at the University would exceed the salary floor for a professor at UVic (ranked in the top 250 universities in the world) in the first year of implementation. By the second year of implementation, the salary floors at the University for both associate professors and professors would exceed the salary floors for associate professors and professors at UVic: **see Original Submissions at para. 189** and **FA's Book of Evidence, Tab B-1**.

d. Given that the FA's salary grid proposal constitutes a substantial part of the overall cost of the FA's proposals, the awarding of that proposal alone would significantly increase the University's projected structural deficits: **UBOD, volume 2, Tab 17**, see also University Submissions at para. 12(b).

   It must be remembered that as a modern research university, the University necessarily incurs a wide range of expenditures to further its academic purposes. Such expenditures include, of course, expenditures for employee compensation but also expenditures for physical facilities, library books, research start-ups, student loans, computers, furniture, equipment and the like: *University of British Columbia v. Faculty Association of the University of British Columbia* (2013 Interest Arbitration, Colin Taylor, Q.C.) at para. 76.

50. In paragraphs 5.8.4 and 5.8.5 of the FA's submission, the FA claims the University has an "administrative practice" of hiring assistant professors at the top of the salary range for assistant professors. In making this claim, the FA has treated a costing assumption which accommodates the range of salaries that will be paid to new hires as a statement of "administrative practice". The notes to the document on which the FA relies - Tab A-15 of the FA's Book of Evidence - make it clear that that the statement quoted by the FA is simply a costing assumption. The University does not, in fact, have the "administrative practice" claimed by the FA.

Part-Time Instructors

51. The FA acknowledges that provisions like those it seeks for part-time instructors are in place at only 55% of the extra-provincial comparators on which it relies (at para. 5.10.8).

52. The University says this proposal would be an impermissible breakthrough.

53. Further, although the number varies, the vast majority (on a recent head count, for example, over 90 out of approximately 125) of part-time Members at the University are nurses. They are employed part-time at the University because they must work sufficient hours as nurses to maintain their licenses. The University does not (unlike some universities in large urban centres) employ large numbers of sessional instructors in other disciplines.

Market Differential

54. Contrary to the FA Submissions, continuing the Market Differentials previously available during the term the Faculty Agreement would not represent a breakthrough. It simply represents a continuation of the *status quo ante* in a manner which is critical to the viability of some of the University's most successful programs. Dilution of the *status quo ante* in the manner proposed by the FA simply compounds the adverse conditions affecting the University's finances and enrollment by putting the viability of successful programs like Business at greater risk.

Article "19A"

55. The University has previously noted that the Parties signed off on an article relating to retirement benefits.

Article 22/E-4 and E-8 (Renewal, Tenure and Promotion of Faculty), Article 23/E-7 (Letters of Reference), and Article 24

56. The University reiterates its original submissions on this topic and notes again the essential correlation between the mandate of a research university and terms and conditions of employment which foster excellence. This is particularly true in relation to the processes – renewal, tenure, and promotion – which lead to the most important decisions made about faculty as they progress through the ranks during their careers.

Article 50/I-2 (Pensions and Benefits)

57. The Members, like employees who are members of either CUPE or the Exempt Group, receive tuition waivers. Distinct and different provisions apply in each group. For example, the Exempt Group does not have waivers for "(common-law spouses and same-sex partners) and children (including step-children)", whereas the CUPE group does. Members of CUPE do not retain "eligibility for the Tuition Waiver in the event of the employee's retirement or death for a period of eight (8) years and not to exceed a total of one hundred thirty five (135) attempted credits", but members of the Exempt Group do. In each of the three Groups, the provisions governing the tuition waiver for the members of the group reflect the deal – including whatever compromises led to the deal - which has been struck by the members of the Group with the University. The FA now seeks to obtain a benefit which incorporates the best of those outcomes without also incorporating the compromises which led to those outcomes. In this regard, it is notable that no other employee on campus enjoys the benefit sought by the FA.

Article 50.4.4

58. Although the FA proposes that this arbitration board should simply adopt a portion of the University's proposed language, this approach ignores the reality of bargaining. The University proposed language in the context of gains it hoped to make or compromises it was prepared to make to achieve a First Collective Agreement. Isolating a small portion of the language proposed by the University and indicating that it would be acceptable is a form of cherry picking which ought not, with respect, to be endorsed by this arbitration board.

Article 54/F-1, Article 55/F-2, Article 56/F-3 (Leaves)

59. Even on the FA's account:

a. At the extra-provincial universities used by the FA at its comparators, "there is no clear norm" with regard to such leaves (see para. 8.5).

b. Compensation available for leaves at the University is within the general range at the extra-provincial universities (90% for first sabbaticals vs. 80% at the extra-provincial universities; 80% for subsequent sabbaticals vs. 84% at the extra-provincial universities) (see para. 8.5).

60. The FA appears to have abandoned the other changes it sought to the relevant language of the Faculty Agreement (see University Submissions at paras. 259, 262, and 265).

Article 61/F-7 (Sick Leave)

61. The FA's final proposal on sick leave represents a significant—and costly—breakthrough (see the University Submissions at paras. 267-271).

62. The FA seeks a 300% increase in the sick leave entitlement for Members. In and of itself, that increase represent a major, ongoing cost to the University.

63. In addition, the information provided by the FA about sick leave at the extra-provincial comparators is meaningless without access to related information about the qualifying period for the long-term disability plans at those universities. The University has, therefore arranged to collect that information. As the following chart indicates, in the case of each university identified by the FA the duration of sick leave is inextricably linked to the qualifying period for the university's long-term disability plan.

Institution	**Sick Leave Entitlement (Calendar Days)**	**Qualifying Period for LTD Benefits (Calendar Days)**
Acadia University	180	180
Brandon University	180	180
Lakehead University	120	120
Lethbridge University	105	105
Mount Allison University	180	180
University of PEI	180	180
University of Regina	90 (not 180)	90
St Francis Xavier University	105	105
Trent University	180	180
UNBC	60	60

64. That inextricable link also exists at the University. Therefore, in addition to the substantial cost to the University of the proposed increase to sick leave, the proposed increase would fundamentally alter the existing link – a link which is in and of itself a "sector norm" - between the duration of sick leave at the University and the qualifying period under the University's long-term disability plan. In turn, this link reflects core features of the long-tem disability plan design. An alteration to the link is, unavoidably, an alteration to the long-term disability plan design. Such an

alteration should only be made through bargaining with a full understanding and recognition of its consequences and costs. It should not be made as an incident of dramatically expanding the current sick leave entitlement.

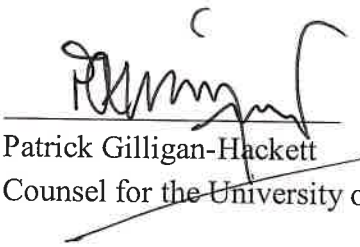
65. The long-term disability plan is a significant benefit available to Members. Even if one Member "did not want to transition to LTD" and one was allegedly "forced" to transition to such a benefit (see para. 7.3.11), that is no reason for undoing the arrangements which were negotiated by the parties during the currency of the Faculty Agreement.

66. The University notes that with respect to WorkSafe top-ups the FA does not appear to appreciate the difference between "100 percent of salary" (see FA Submissions at para. 7.3.4) and "100% of net salary" (see FA Submissions at footnote 5). The FA's proposal would result in Members receiving more than 100% of salary while receiving WorkSafe benefits.

CONCLUSION

67. An appropriate award under section 55 of the *Code* would be a five-year First Collective Agreement reflecting the University's final proposals on the outstanding issues.

All of which is respectfully submitted on behalf of the University of Northern British Columbia



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