IN THE MATTER OF AN INTEREST MEDIATION/ARBITRATION UNDER SECTION 55 OF THE *LABOUR RELATIONS CODE,* RSBC 1996, c.244

BETWEEN:

UNIVERSITY OF NORTHERN BRITISH COLUMBIA

(the "UNBC" or "Employer")

AND:

UNIVERSITY OF NORTHERN BRITISH COLUMBIA FACULTY ASSOCIATION

(the "Union" or "Faculty Association")

(Re: First Collective Agreement)

ARBITRATOR: Stan Lanyon, Q.C.

COUNSEL: Patrick Gilligan-Hackett for UNBC

Alan Black, Q.C. for the Faculty Association

DATE AND PLACE OF MEDIATION/ ARBITRATION: November 10, 19, 20 and 30, 2015 Prince George, B.C.

DATE OF AWARD: December 16, 2015

Award

I. Introduction

[1] This is an interest arbitration under Section 55 of the British Columbia *Labour Relations Code ("Code")*, R.S.B.C. 1996 c.244. Section 55 of the *Code* deals with the imposition of a first collective agreement. Typically such interest arbitrations involve an employer and a newly certified trade union negotiating their first collective agreement. Historically, this has sometimes proven to be a difficult labour relations problem. As a result, special provisions governing the negotiation of first collective agreements have been enacted in different labour relations legislation throughout Canada.

[2] The parties in this case agreed to a mediation/arbitration process. This involved mediation prior to and during this interest arbitration, all in an effort to reach settlement, or at least reduce the number of issues in dispute. The parties have filed several hundred pages of written submissions as well as supporting documents and briefs of authorities. All facts in this matter, and the resulting terms and conditions set out in this First Collective Agreement under Section 55 of the *Code,* are the result of those written and oral submissions made during both mediation and arbitration.

II. Background

A. History of UNBC and Faculty Association

[3] UNBC was founded in 1990 as one of British Columbia's four research universities. Under Section 3(1) of the *University Act*, R.S.B.C. 1996 c. 468 ("*Act*"), four research universities are continued: University of British Columbia (UBC), University of Victoria (U

Vic), Simon Fraser University (SFU) and University of Northern British Columbia (UNBC):

> 3 (1) The following corporations continue to be universities in British Columbia:
>
> (a) The University of British Columbia;
> (b) University of Victoria;
> (c) Simon Fraser University;
> (d) University of Northern British Columbia.

[4] Under Section 1, Definitions, a University is defined as follows:

> "university" means
>
> (a) each of the universities named in section 3(1), and
> (b) a special purpose, teaching university;

[5] Section 47 defines the functions and duties of the *research university* set out in Section 3:

> 47(1) In this section, "university" means a university named in section 3(1).
>
> (2) A university must, so far as and to the full extent that its resources from time to time permit, do all of the following:
>
> (a) establish and maintain colleges, schools, institutes, faculties, departments, chairs and courses of instruction;
> (b) provide instruction in all branches of knowledge;
> (c) establish facilities for the pursuit of original research in all branches of knowledge;
> (d) establish fellowships, scholarships, exhibitions, bursaries, prizes, rewards and pecuniary and other aids to facilitate or encourage proficiency in the subjects taught in the university and original research in all branches of knowledge;

(e) provide a program of continuing education in all academic and cultural fields throughout British Columbia;
(f) generally, promote and carry on the work of a university in all its branches, through the cooperative effort of the board, senate and other constituent parts of the university.

[6] In addition to the four research universities, two other British Columbia universities have research as part of their mandate. Both are constituted under their own statutes. Royal Roads University is continued pursuant to *Royal Roads University Act*, R.S.B.C., 1996 c. 409. It offers programs that are primarily directed to professionals at the Masters Degree level. Under Section 2 of its enabling statute Royal Roads is able to maintain research activities that support its programs. Thompson Rivers University (TRU) was established under the *Thompson Rivers University Act*, R.S.B.C. 2005 c.17. Much like UNBC, it has a geographical mandate providing academic, professional, and career training programs aimed at students in the Interior of British Columbia. Like Royal Roads, TRU can undertake research and scholarly activities in furtherance of the programs that it offers. In total, six universities (UBC, SFU, UVic, UNBC, Royal Roads and TRU) constitute the Research Universities Council of British Columbia (RUCBC).

[7] Section 47.1 sets out the functions and duties of a *special purpose, teaching university*. The focus of a special purpose, teaching university includes not only undergraduate and graduate programs but also career and technical training. Research is not a core part of the duties and functions of these universities.

47.1 A special purpose, teaching university must do all of the following:

(a) in the case of a special purpose, teaching university that serves a geographic area or region of the province, provide adult basic education, career, technical, trade and academic programs leading to certificates, diplomas and baccalaureate and masters degrees, subject to and in accordance with regulations under section 71(3)(c)(i);

(b) in the case of a special purpose, teaching university that serves the whole province, provide applied and professional programs leading to baccalaureate and masters degrees, subject to and in accordance with regulations under section 71(3)(c)(ii);

(c) provide, in addition to post-secondary programs referred to in paragraph (a) or (b), post-secondary programs specified in regulations under section 71(3)(c)(iii);

(d) so far as and to the extent that its resources from time to time permit, undertake and maintain applied research and scholarly activities to support the programs of the special purpose, teaching university.

[8] Special purpose, teaching universities include Capilano University, Vancouver Island University, University of the Fraser Valley, Kwantlen Polytechnic University and Emily Carr University.

[9] UNBC offers twenty-seven Masters Programs, three Doctoral Programs, as well as professional schools in nursing, social work, education, planning, business, medicine and engineering. All research universities, including UNBC, compete at both the national and international level. The Employer cites the leading global rankings as set out in the Times Higher Education World University Rankings for 2015 – 2016: UBC ranked 34th in the world, UVic ranked in the 201 – 250, and SFU ranked 250 – 300. The Union correctly states these rankings should not be used to measure the achievements of the the small and primarily undergraduate universities. With respect to these universities, both the Employer and the Union cite the MacLeans' Rankings, which focuses on Canadian universities. In the smaller, primarily undergraduate category, UNBC ranked first amongst eighteen such institutions; UBC placed third in the Medical/Doctoral category behind McGill and the University of Toronto; and SFU and UVic placed first and third, respectively, in the Comprehensive category.

[10] UNBC began hiring faculty in 1992. The first terms and conditions of employment were set out in a Faculty Handbook. The Handbook was created in 1992. Significantly, this Handbook drew from provisions in effect at the other three research universities: UBC, SFU and UVic. The 1992 Handbook was replaced when the Faculty Association was formed in 1994 under the *Societies Act* of British Columbia. This resulted in a jointly negotiated Faculty Agreement, first ratified on June 14, 1995. Since then there have been six jointly negotiated agreements between UNBC and the Faculty Association: 1994 - 1998, 1998 – 2001, 2001 – 2004, 2004 – 2006, 2006 – 2010, 2010 – 2012. A seventh agreement was awarded in an interest arbitration by Arbitrator Ready, resulting in the 2012 – 2014 Faculty Agreement. The Union describes the current Faculty Agreement in its November 6, 2015 submission as follows:

> This seventh and final iteration of the Faculty Agreement contains 259 pages and is a mature document governing terms and conditions of employment ranging from Academic Freedom to Discipline and grievance handling. Much of the Faculty Agreement represents sector-norm terms and conditions of employment. The maturity of the Agreement is a testament to past UNBC-FA negotiating teams and to the shared goal of Employer and Association: creating and sustaining a top-ranked university in northern British Columbia.
>
> (para. 1.3.8)

[11] The UNBC Faculty Association was certified as a trade union on April 29, 2014. As of September 2015, it has approximately 345 members. The largest group are the full time faculty members who total about 175. They are grouped into four ranks: Lecturers (17), Assistant Professors (26), Associate Professors (57) and Full Professors (75). The bargaining unit also includes a large number of Part-time Instructors (132) and a small number of Full-time Instructors (2). It also includes Senior Lab Instructors (27) and Librarian members (9), both academic and archivists. The primary duties of Full-Time tenure track faculty are

teaching, research, scholarly or creative activity, and service to the University and community.

[12] Arbitrator Ready issued his Award on February 4th, 2014. That Agreement expired in June 2014. This interest arbitration concerns the parties' first collective agreement in this newly unionized relationship from 2014 forward.

B. Current Collective Bargaining

[13] Mediator Trevor Sones of the British Columbia Labour Relations Board ("Board"), Mediation Division, filed a report, dated March 31, 2015, pursuant to Section 55(6) of the *Code*. He was the Mediator assigned by the British Columbia Labour Relations Board to the collective bargaining dispute between UNBC and the newly certified Faculty Association. In the introduction to his report he set out the negotiation/mediation history of the parties' attempts to reach a collective agreement:

> Commencing April 29th, 2014 the Union is certified to represent approximately three hundred and eighty-eight (388) employees. The parties met in direct collective bargaining 17 times on the following dates: in 2014; May 20, June 11, 12, 23, 26, July 3, 29, August 21, 26, September 4, 9, 11, 18, 23, 30, October 7, 9.
>
> Pursuant to Section 74 of the Code I was appointed as Mediator on October 22, 2014. The parties met an additional 25 times on the following dates: In 2014; November 5, 6, 10, 11, 19, 20, December 2, 3, 4, 10, 11, 15, 16 and 17; and in 2015; January 9, 10, 11, 23, 24, 25, 30, 31, February 1, 6 and 7. During this time period the Union conducted a successful strike vote on January 15, 2015.
>
> For the purposes of the Code I was asked to report out of the dispute on Tuesday February 10, 2015. The parties met in bargaining without the assistance of a mediator an additional 7 days, February 25, 26, March 4, 5, 6, 12 and 14, 2015. Job action commenced during this time period (March 5, 2015).

[14] The Faculty Association commenced a strike on March 5, 2015. The strike lasted until March 19, 2015, when the Employer made an application under Section 55 of the *Code.* Mediator Sones met with the parties on March 25, 2015. He concluded that the parties were too far apart to make recommendations with respect to the terms and conditions of a new collective agreement. He therefore determined under Section 55(6)(a) of the *Code* to refer the matter to interest arbitration.

III. Section 55

[15] The British Columbia Labour Relations Board in *Yarrow Lodge Limited,* 1993, 21 C.L.R.B.R. (2d) 1, set out the principles governing the mediation/arbitration of a first collective agreement under Section 55 of the *Code*. As stated, first collective agreements between employers and a newly certified trade unions have long proven a difficult labour relations issue. This may result from the inexperience of the parties, or from a difficult certification dispute, including unfair labour practices, or a negotiation that is in fact a continuation of a recognition dispute, or from a bitter and protracted strike or lock out.

[16] In *Yarrow, supra*, the Board adopted two overriding principles that are an integral and historical part of interest arbitration generally: first, the replication principle; and second, what is fair and reasonable in the circumstances. With respect to the replication principle, an arbitrator will attempt to construct a collective agreement that would replicate as nearly as possible an agreement that conventional bargaining would have produced. With regard to what is fair and reasonable, an interest arbitrator will avoid imposing any agreement that would reflect an undue imbalance of power between the parties. In the application of these two principles an interest arbitrator will rely on one primary objective factor - the terms and conditions of employment of other employees performing similar work. This is known as the "comparator principle".

[17] In determining the actual terms and conditions of a first collective agreement the Board in *Yarrow, supra,* set out the following factors that will guide an interest arbitrator:

> Our objective is to provide arbitrators with both guidance and flexibility in determining the actual terms and conditions of employment. These factors are as follows:
>
> 1. A first collective agreement should not contain breakthrough or innovative clauses; nor as a general rule shall such agreements be either *status quo* or an industry standard agreement.
> 2. Arbitrators should employ objective criteria, such as the comparable terms and conditions paid to similar employees performing similar work.
> 3. There must be internal consistency and equity amongst employees.
> 4. The financial state of the employer, if sufficient evidence is placed before the arbitrator, is a critical factor.
> 5. The economic and market conditions of the sector or industry in which the employer competes must be considered.
>
> (page 48)

[18] Further, the Board will not, as general rule, impose either the status quo (the Employer's current terms and conditions) or a Union's Master Agreement. Rather, the focus is on basic collective agreement rights, such as seniority, layoff and recall rights, promotion clauses, a grievance/arbitration process and union security provisions.

[19] However, both parties acknowledge that this particular interest arbitration is not the "typical" Section 55 interest arbitration. In its submission of November 6, 2015, the Union states that the Association has "…enjoyed defacto recognition as a sole bargaining agent, with acknowledged negotiating and grievance rights more usually associated with unionized associations (and in some cases stronger than those faculty associations at other research universities in British Columbia)." (para. 1.3.7)

[20] Further, the Faculty Association refers to the Faculty Agreement as a "mature document" that reflects "sector norm terms and conditions of employment", (paragraph 1.3.8). And at paragraph 5.2.2.xi the Faculty Association recognizes that "the present case does not reflect the typical first collective agreement scenario":

> 5.2.2.xi In sum, the UNBC-FA acknowledges that as a general rule, first collective agreements should neither reflect the status quo nor achieve an industry standard agreement (*Yarrow Lodge, supra*). Given the longstanding and ongoing relationship between the parties, the present arbitration is clearly an exception to the general rule. The Union asserts that the concept of status quo discussed in *Yarrow Lodge* normally reflects a previously non-union setting where a certification has been achieved. As noted already, the present case does not reflect the typical first collective agreement scenario. In such a case, there is nothing that binds an arbitrator to a modest award, nor is there anything preventing the comparison of the UNBC-FA's current demands to collective agreements that result from mature bargaining relationships.

[21] Both the Union and the Employer rely on collective agreements that are the result of a longstanding and mature collective bargaining relationship, at both the provincial and national level. Both parties acknowledge that this is clearly not a case where a non-union employer has unilaterally imposed the terms and conditions of employment. Instead, for more than twenty years, the parties have jointly negotiated the terms and conditions of employment. As the Faculty Association states it has enjoyed a status akin to a voluntary recognition.

[22] Despite the fact that the parties' relationship represents a mature bargaining relationship, the Union argues that this does not turn this Section 55 arbitration into "an ordinary interest arbitration" (para. 1.1.1 November 18, 2015).

[23] The principles in interest arbitration set out in *Yarrow, supra,* were adopted from longstanding principles that apply to interest arbitration in general. Arbitrator Hall in *Thompson Rivers University v. Thompson Rivers University Open Learning Faculty Association*, [2012] B.C.C.A.A.A. No. 71, adopted the following statement from Arbitrator McPhillips' Award in *Nelson (City and Nelson Professional Fire Fighters Association*, [2010] B.C.C.A.A.A. No. 174, that set out the traditional fourfold governing principles:

> ... First, replication is the desired outcome and that refers to the notion that an interest arbitration board should attempt to duplicate what the parties themselves would have arrived at if they had reached an agreement on their own. …[I]n *Board of School Trustees, School District No. 1 (Fernie) and Fernie District Teachers Association*, 8 L.A.C. (3d) 157, Arbitrator Dorsey stated, at p. 159 that "…the task of an interest arbitrator is to simulate or attempt to replicate what might have been agreed to by the parties in a free collective bargaining environment where there may be the threat and the resort to a work stoppage in an effort to obtain demands … and arbitrator's notions of social justice or fairness are not to be substituted for market and economic realities" ….
>
> A second principle is the requirement to be "fair and reasonable" in the sense that the award must fall within a "reasonable range of comparators" even if one party could have imposed more extreme terms …
>
> Third, the exercise of interest arbitration has been described as a "conservative process" and that it "ought to supplement and assist the parties' collective bargaining relationship and not unravel or depart from it" …. Interest arbitrators are enjoined to replicate the collective bargaining process. Thus, it is predictable, and perhaps inevitable, that they will follow bargaining trends, not set them".

> Fourth, as a result of this reluctance to innovate, historical patterns of negotiated settlements between the parties will carry significant weight … (paras. 6 – 9)

[24] Arbitrator Hall also noted, that although these principles were cited with regard to statutory criteria governing police and firefighter interest arbitrations, these principles were "broadly accepted as applicable to any interest arbitration" (paragraph 11).

[25] In the unique circumstances of this case, I find that it is common sense to rely upon the traditional principles of interest arbitration, where they are consistent with the *Yarrow, supra,* principles – for example, relying upon, and giving significant weight to, the historical pattern of the negotiated settlements between these parties. It would be somewhat ironic if the traditional interest arbitration principles applied by Arbitrator Ready to the 2012 – 2014 Faculty Agreement, were to be precluded from this Section 55 interest arbitration. To intentionally ignore the actual circumstances of this matter would be to apply an unduly literal interpretation to Section 55, inconsistent with its purpose and principles – to construct a collective agreement that free collective bargaining would have produced (replication principle), and, to determine what is fair and reasonable. It must be remembered that the principles set out in *Yarrow*, *supra,* were based upon the traditional interest arbitration principles. Such a integration of principles does not reduce this Section 55 interest arbitration to an "ordinary interest arbitration"; rather, it reflects most accurately the parties' negotiating history and the current terms and conditions of employment.

IV. Agreed to Items

[26] First, it should be stated that the parties have already agreed to more than fifty items during the negotiations of their first collective agreement. Mediator Sones makes the following comments in his report of March 31, 2015:

> In the context of the S. 55 considerations under the *Code* and B.C.L.R.B. No. B444/93 *Yarrow Lodgee. Ltd.* I find in this circumstance that the process of collective bargaining itself has been used by the parties to the greatest extent possible in effort to achieve a first collective agreement. Through direct collective bargaining and collective bargaining with the assistance of a mediator, the parties have resolved the overwhelming majority of the articles that were set out in their initial agendas. The parties have each made numerous compromises and through productive dialogue have developed a number of solutions to the challenges before them.

[27] I attach as Appendix 1 to this Award, the index of the Agreed To Items. The collective agreement language set out in each of these Agreed To Items is hereby incorporated into and forms part of the parties' First Collective Agreement.

V. <u>Issues in Dispute</u>

[28] The following issues are still in dispute:

Monetary Items

Salaries

- 48 Compensation
- 48A Market Adjustments

Benefits

- 19A MOU on Post-Retirement Benefits
- 50 Pensions and Benefits
- 61 Sick Leave

Leaves

- 54 Sabbaticals
- 55 Academic or Professional Leave for Librarian and Senior Lab Instructor Members

56 Assisted Study Leave

Tenure and Promotion Issues

22A (E-4) & 22B (E-8) Renewal, Tenure and Promotion of Faculty
23 Letters of Reference
24 (E-6) Promotion and Continuing Appointment of Librarian Members

Duration of the Agreement

75 Duration of the Agreement

Member Protection in Case of a Strike by Another Union

XX Strike/Lockout Protocols

VI. Article 48 - Compensation

[29] This is a difficult issue. It involves an analysis of the appropriate comparators, the use of benchmarks, the issue of salary grid and increments, and the Public Sector Employer's Council mandate.

A. Union Position

[30] First, is the issue of comparators. This issue underlies both the Employer's and the Faculty Association's compensation offers and the rationale for their respective offers. The reference paragraph numbers refer to the parties respective submissions, dated November 6, 2015.

[31] The use of comparators (comparative settlements) is one of the primary factors that guide interest arbitration. It is an objective measure. It is a rational matching of similar employees performing similar work. Comparative agreements may be either those that are

freely negotiated or the result of interest arbitration. Comparative settlements inform both the principle of replication and what is fair and reasonable.

[32] The Faculty Association argues that the most appropriate comparators are the small, primarily undergraduate universities in Canada. It relies on the universities set out in the MacLeans magazine ranking in which UNBC placed first out of 18 primarily undergraduate universities in Canada. Although it says all 18 universities are appropriate comparators, the Faculty Association specifically relies upon the following nine comparators for the purposes of this arbitration:

> 3.1.8.i The preceding section details the process by which the UNBC-FA arrived at its list of nine comparators for the purposes of this arbitration. Our list of comparators is as follows:
>
> - Acadia University
> - Brandon University
> - University of Lethbridge
> - Lakehead University
> - Mount Allison University
> - University of Prince Edward Island
> - University of Regina
> - St. Francis Xavier University
> - Trent University
>
> (submission November 6, 2015)

[33] I will refer to these universities as the Faculty Association's nine national comparators. The Faculty Association states that both the Administration of UNBC, and the UNBC Board of Governors, have recognized many of these same comparators, both in negotiations and for institutional and academic purposes. In a series of graphs, in its submission of November 6, 2015, it sets out the salaries of Assistant Professor, Associate Professor, Full Professor, and Librarians. The Faculty Association concludes "In sum,

salaries at UNBC are not merely at the bottom of the charts, but unacceptably distant from the norm" (para. 5.3.6.ii). The comparisons set out in the graphs are with respect to these nine national comparators.

[34] Second, is the issue of benchmarks. The Faculty Association reproduces the benchmarks cited in the arbitral award of Arbitrator Bruce Outhouse in *Faculty Association of the University of St. Thomas and St. Thomas University,* July 4th, 2008. I agree with the following remark of Arbitrator Outhouse:

> In my opinion, the best way to compare salaries is on the basis of benchmark positions. This method is fairly standard and widely used. (page 43)

[35] The parties in the *St. Thomas University, supra,* Award agreed on four benchmarks. The mid-range Assistant, Associate and Full Professor ranks, as well as the Full Professor ceiling.

[36] The Faculty Association in this case has chosen four similar benchmarkds: the salary of the Assistant mid-range (four (4) years in the rank of Assistant), the salary mid-range of an Associate (eight (8) years in the rank), the salary mid-range of a Full Professor (eight (8) years in the rank), and the salary of a Senior Full Professor (thirteen (13) years in rank).

	Mid-range of Assistant (4th grid step, or 4 years in rank)	Mid-range of Associate (8th grid step, or 8 years in rank)	Mid-range of Full (8th grid step, or 8 years in rank)	Senior Full Professor (13th grid step, or 13 years in rank)
Acadia	76,315	100,735	117,015	127,190
Brandon	75,118	109,070	135,360	152,090
Lethbridge	67,200	91,800	116,800	128,800
Lakehead	86,000	122,000	142,000	167,000
Mount Allison	77,771	104,387	128,046	142,833
PEI	77,923	106,565	128,403	143,394
Regina	87,931	116,413	140,990	144,277
St. F-X	74,806	99,925	122,099	135,629
Trent	91,482	188,278	140,537	154,523
Average	79,394	107,686	130,139	143,971
Average (Unionized)	80,918	109,672	131,806	145,867
UNBC	69,624	87,915	104,644	110,199

(Figure 12, para. 5.3.7.ii, November 6, 2015)

[37] The Faculty Association states that a mid-range Assistant Professor at UNBC is paid only 88% of the average salary of her colleagues at the nine national comparators. The mid-range Associate Professor is paid only 82% of the average salary of her colleagues at the nine national comparators. And the mid-range Full Professor at UNBC is paid only 80% of the average salary of her colleagues at the nine national comparators. Finally, the Senior Full Professor at UNBC is paid only 77% of the average salary of her colleagues at the nine national comparators.

[38] Third, is the issue of a Salary Grid and Career Development Increments (CDIs). These increments are earned by employees as they progress through a specific rank. These increments recognize the growing expertise of a faculty member over her career. Although most of these salary increments or CDIs are customarily awarded to faculty members, they

are nonetheless subject to a satisfactory assessment. Currently the CDIs at UNBC are now $2,222 for the first three years in any given rank, and then $1,111 annually thereafter.

[39] The Union produces several graphs that set out the Career Development Increments for full time faculty at UNBC, and Salary Grids at comparative universities, both in 2014 - 2015, and in 2015 - 2016. In 2014 – 2015, the average increment across the Faculty Association's unionized national comparators was $2,691, as opposed to $1,111 at UNBC (Figure 18, para. 5.3.10.viii). In 2015 – 2016 the average across its unionized national comparators was $2,795, as opposed to $1,111 at UNBC (Figure 19, para. 5.3.10.x). This is an important aspect of the Faculty Association's compensation demand.

[40] The current salary structure at UNBC is based upon the concept of "floors and ceilings" (Appendix 48(a), Faculty Agreement 2012 – 2014). In each faculty salary rank (Assistant, Associate, Professor), as well as the other salary categories of employees in the Faculty Association, there is a minimum and maximum salary within that rank. Increments are paid within that rank until an individual faculty member reaches the maximum permissible salary for that rank.

[41] Importantly, the Faculty Association acknowledges that its compensation proposal involves a significant "remapping" of the current compensation model of floors and ceilings. Instead of floors and ceilings it wishes to introduce a salary grid imported from the salary grids of the other national comparators within the small primarily undergraduate universities. Although it initially proposed a two year agreement, its final proposal involves an option of a five year salary grid (Union proposal, November 19, 2015).

[42] In year 1, the Faculty Association proposes new floors for each of the ranks of its members of the Faculty Association. For example, Lecturers would have a new floor of $56,000 as opposed to the current $54,574.72 (all current salaries based on 2012 – 2014 Faculty Agreement); Assistant Professors would have a new floor of $68,000 as opposed to

the current salary of $64,069.21; and Associates would have a new floor of $82,000 as opposed to $77,916.45. A Full Professor would have a new floor of $104,000 as opposed to the current salary of $94,644.50. In addition, in Year 1, each of the increments would be increased to $1,700 from $1,111. In year 2, there would be a general wage increase of 2%, and the increments would increase to $1,900. In year 3, there would be a general wage increase of 1.5%, and the increment would increase to $2,100. In year 4, there would be a general wage increase of 1.5%, and the increment would increase to $2,350. In year 5, there would be a 0% general wage increase but there would be a new differential increase in the grid steps; for example, the increment for an Assistant would increase to $2,600, an Associate to $2,800 and a Professor to $3,100. The Faculty Association's proposal includes percentage increases as follows: Year 1 - 2.5%, Year 2 – 2.3%, Year 3 – 2.0%, Year 4 – 2.7%, Year 5 – 3.3%, for a total of a 12.8% over five years.

[43] The Faculty Association argues that this new remapping of the compensation system, rather than simply a general wage increase, addresses the current inequities, both external and internal, with respect to UNBC faculty member salaries. Externally (in terms of its two year proposal), it would move UNBC Faculty Members to within the "fourth quintile of its comparators" (para. 5.7.1.ii). Internally, it would reward the most senior members of the bargaining unit who, on a comparative basis, it says, have fallen the furthest behind. Moreover, it would address the issue of increments, which the University has recognized needs to be addressed. In addition, the Faculty Association argues that remapping of the compensation provision of the collective agreement is consistent with the purposes of *Yarrow, supra*. Thus, it is not a "breakthrough" item; rather, it imports "sector-norm" compensation practices into the UNBC Faculty Agreement.

[44] Finally, the Faculty Association argues that the Public Sector Employers' Council mandate is not one that binds an interest arbitrator. It is simply one aspect of the general economic conditions affecting UNBC.

B. Employer Position

[45] The Employer's primary focus with respect to comparator universities are those within the Province of British Columbia, specifically, the Research Universities Council of British Columbia (RUCBC), which consists of UBC, UVic, SFU, UNBC, TRU and Royal Roads. The Employer states that UBC stands on its own, both in terms of its standing in the international community, and the fact that its compensation model is largely based on merit. The Employer, therefore, places particular emphasis on UVic and SFU as appropriate comparators. It also recognizes a second tier of national comparators, including Acadia, Brandon, Lakehead, Laurentian, Lethbridge, Mount Alison, St. Mary's and Trent. The majority of these universities are included in the Faculty Association's nine national comparators. It should also be noted that both the UVic and SFU Faculty Associations were certified under the British Columbia *Labour Relations Code* at approximately the same time as the UNBC Faculty Association.

[46] The Employer recognizes that the Public Service Employer's Council (PSEC) mandate does not bind an arbitrator. However, it says that the PSEC mandate is binding on all public sector employers. This mandate restricts the maximum amount of compensation that a public sector employer can award to its employees. In addition, once any tentative agreement has been reached, PSEC must approve it. Moreover, PSEC has informed the Employer that the Government will not fund any settlement, or arbitration award, in excess of the general wage increases provided in the following Economic Stability Mandate: a five year term, and a general wage increase over that five year term of 5.5% . It is to be awarded based on the following timetable:

July 1, 2014	0.0%
July 1, 2015	1.0%
May 1, 2016	Economic Stability Dividend
July 1, 2016	0.5%
May 1, 2017	1.0% + Economic Stability Dividend
July 1, 2017	0.5%
May 1, 2018	1.0% + Economic Stability Dividend
July 1, 2018	0.5%
May 1, 2019	1.0% + Economic Stability Dividend

[47] The Economic Stability Dividend is a general wage increase equal to one-half (1/2) of any percentage gain in real GDP above the forecast of the Economic Forecast Council for the relevant calendar year. For example, if GDP were 1% above the forecast then employees would be entitled to a general wage increase of one-half of one percent (0.5%).

[48] The Employer cites the settlements at other research universities in BC as suitable comparative settlements. On June 8, 2015, UVic and its Faculty Association reached a first collective agreement within the Economic Stability mandate - a five year term and a general wage increase of 5.5%. On March 9, 2015, Royal Roads and its Faculty Association reached an agreement within the Economic Stability Mandate - a five year term and a general wage increase of 5.5%. SFU and its Faculty Association have not yet reached a first collective agreement. TRU and its Faculty Association have also not yet reached an agreement. UBC voluntary recognized its Faculty Association in 2000. The Faculty Association Collective Agreement at UBC includes an interest arbitration provision. Currently, there is a three person arbitration board, chaired by Colin Taylor, Q.C., hearing the matter. The Employer states that the UBC Faculty Association is proposing a two year agreement with general wage increases of 3% and 3%.

[49] In terms of the Employer's eight extra-provincial comparators (Acadia, Brandon, Lakehead, Laurentian, Lethbridge, Mount Alison, St. Mary's and Trent), most of their salary increases are yet to be determined for the period 2014 – 2019. One exception is the

Brandon Faculty Association, which will receive a total of 11.5% over the period of five years (2014 – 2019) (3%, 2%, 2%, 2%, 2.5%). (It also received, 3% increase in 2013 – 2014) Mount Alison received 2% and 2.25% for the period 2014 – 2015 and 2015 – 2016. St. Mary's received an increase of 2% in 2014 – 2015 and Trent 2.5% in 2014 – 2015 (paras. 187 – 189).

[50] In its submission of November 6, 2015, the University set out the salary floors of RUCBC members for the period 2013 – 2014. (However, UVic salary comparison are derived from the 2014 – 2015 Collective Agreement.) Its eight comparator's floors vary between 2013 – 2014 to 2015 – 2016. With respect to the average in BC, the floor for an Assistant Professor at UNBC is $64,069, the average in BC was $62,757; the floor for Associate at UNBC was $77,916, the average in BC was $77,953; the floor for a Professor at UNBC was $94,64,5 and the average in BC was $93,926. The increments at UNBC were once again $1,111, and the average in BC was $1,716.00. The overall average of both the provincial and national comparators was as follows: Assistant Professor $67,238 (UNBC, $64,869); Associate Professor $83,020 (UNBC, $77,916); Full Professor $102,285 (UNBC, $94,645). The average of the increments over that period of time was $2,314.00. The Employer concludes that salary floors at UNBC are within the normative range.

[51] UNBC states that the UNBC Faculty has the lowest ratio (provincial or national) of undergraduate students to faculty: 12.9 (para. 192). In terms of research dollars received, expressed as a ratio of dollars to faculty members, the University ranks fourth among its provincial comparators, but is first among the Employer's national comparators.

[52] Third, is the issue of the Employer's finances. The Employer spent considerable time setting out its current financial circumstances (para. 103 – 179). The following is a summary.

[53] UNBC's fiscal year starts on April 1 and ends on March 31. The Employer academic year starts September 1 and ends August 31. The historical contract year for the Faculty Agreement has began on July 1 and ended on June 30.

[54] UNBC maintains five separate funding categories with respect to revenues and expenditures; Consolidated General Operating; Ancillary Services; Specific Purpose including endowment monies; Sponsored Research; and Capital. Particular funds, such as Specific Purpose and Sponsored Research, are held for designated purposes and may have both external and internal restrictions. These funds are generally not available to pay salaries and benefits. The Consolidated General Operating fund has five main components: General Operating Fund (GOF), Carryforward, Northern Medical Program, Routine Capital and Professional Development/ Startup Funds. An example of a wholly restricted fund is the $7 million dedicated to the Northern Medical Program.

[55] In general, UNBC's revenues originate from three sources: the Operating Grant, student tuition and fees, and other revenue. UNBC's General Operating Fund derives its largest amount of revenue from two sources: first, tuition which constitutes about 25%; and the Operating Grant provided by the Government, which constitutes approximately 70%.

[56] First, tuition revenue is directly linked to levels of enrollment. UNBC has experienced a recent decline in overall student enrollment. In 2012 – 2013, enrollment reached a high of 3,091; currently, in 2014 – 2015, it is at 2,823 (para. 123). As a result of declining enrollment UNBC has now projected a shortfall of $1.4 million in tuition revenue for the 2015 – 2016 year (para. 126). International students pay 3.5 times the domestic tuition rate, however, in 2014 – 2015 revenue from international students has also declined (paras. 128 – 9).

[57] Second, the Operating Grant is the annual amount provided by the Provincial Government to enable the University to deliver its academic programs and maintain its

facilities. Between 2013 – 2014 and 2015 – 2016 the Operating Grant for UNBC declined by $1.305 million (para. 134 and 135). Thus going forward, the University now has an annual reduction in its Operating Grant of $1,305,000. Therefore, there has been a decline in the University's two primary revenue sources.

[58] UNBC's remaining "other revenues" are made up of nearly 50 different individual types of income such as rent, interest, cost recoveries, facility overhead and tax recoveries. Because these revenues are unpredictable, and subject to significant fluctuation, UNBC does not rely on this area of revenue when planning its revenue sources.

[59] As a result of these declining revenues, UNBC projects budget reductions of approximately $4 million annually over the next three years (para. 144). It is therefore eliminating allocations to reserves, including scholarships and awards, faculty recruitment and retention awards, and capital equipment replacement reserves. On the positive side of the ledger, it is increasing its estimates of investment income, as well as estimates of salary savings that result from the increasing number of employee vacancies.

[60] The Employer acknowledges that in the past two fiscal years UNBC had a GOF surplus of about $4.2 million in each year (para. 166). This surplus was the result of departmental carry forwards and one time salary savings from unplanned vacancies. The bulk of the surplus, 92.8%, arose from salary and benefit savings from vacant and turnover positions (para. 168). Therefore, these year end surpluses represent non-recurring sources of funding.

[61] UNBC's accumulated surplus, totals approximately $135 million. Of this amount, $47 million represents endowments. These endowment funds are restricted and are not available for purposes other than those directed by their donors. Approximately $84 million of surplus funds constitutes the "Accumulated Operating Surplus". This surplus has accrued over approximately 25 years. Over half of this $84 million comes from UNBC's investment

or equity in its capital assets. Of the remaining balance, nearly $29 million, represents balances held for departmental carryforwards, professional development, internal research funding and the Specific Purpose, Capital and Ancillary Service Funds (para. 170 – 173).

[62] UNBC holds about $3.5 million as an unrestricted reserve. This represents about one months revenue from the operating grant. UNBC holds this reserve as a contingency fund against unexpected events (para. 174). The balance of about $8.6 million is allocated to projects and capital purchases. Recent facility conditions indicate that UNBC residences will require nearly $3 million for items such as a roof, air handler and boiler replacements. Additional maintenance and repairs are estimated at $2 million over the next five years. A further $57 million is the estimated cost of maintenance to other buildings, only a portion of which is likely to be funded by government grants. Deferred maintenance accrues at an annual value of around $12 million (para. 176). UNBC argues that projected reductions in revenues, and these projected structural deficits, means that UNBC cannot commit to salary increases beyond those set out in its final proposal (para. 179).

[63] The actual budget for UNBC in 2014 – 2015 is $66,534,251.

[64] UNBC acknowledges that an important aspect of faculty compensation is salary increments or Career Development Increments. Its initial offer included not only adjustments to salary floors and ceilings but also the enrichment of the Career Development Increments (ECDIs), and a new Merit Pay structure. These increased increments amounts to an additional 4% over the 5.5% set out in the PSERC guidelines. This represents, therefore, a total general wage increase of 9.5% over five years. This has been approved by PSEC.

[65] Finally, UNBC cites two sections of the *University Act* that restrict its financial authority. The first is Section 29 which requires the University to operate within a balanced

budget. UNBC is only entitled to run a deficit if it receives the approval of both the Minister of Advanced Education and the Minister of Finance:

> Limit on Expenditures
>
> 29(1) In this section:
>
> "expenditure" includes amortization, allowances for doubtful accounts and other non-cash expenses;
>
> "revenue of the university from other sources" does not include
>
> (a) unrealized gains or losses on investments, or
> (b) endowments received by the university.
>
> (1.1) The board must not incur any liability or make any expenditure in a fiscal year beyond the amount unexpended of the grant made to the university and the estimated revenue of the university from other sources up to the end of and including that fiscal year, unless an estimate of the increased liability or over-expenditure has been first approved by the minister [Minister of Advanced Education] and Minister of Finance.

[66] Second, Section 58 limits the ability of UNBC to borrow money (i.e. for land and building), requiring, once again, the approval of the Minister of Advanced Education and the Minister of Finance:

> Borrowing
>
> 58 (1) With the approval of the minister [Minister of Advanced Education] and Minister of Finance, a university may borrow money for the purpose of
>
> (a) purchasing or otherwise acquiring land for the use of the university, or
> (b) erecting, repairing, adding to, furnishing or equipping any building or other structure for the use of the university.
>
> (2) The board may

(a) enter into any agreement that it may consider necessary or advisable for carrying out the purposes mentioned in this section, and
(b) execute in the name of the university all agreements, deeds and other instruments considered necessary or advisable to carry into effect the provisions of the agreement.

C. Union Reply: November 18, 2015

[67] The Faculty Association filed an extensive reply. I will summarize it. All references to paragraph numbers are from its submission of November 18, 2015, unless otherwise indicated.

[68] First, the Faculty Association argues that the Section 55 criteria in *Yarrow, supra,* favours the Faculty Association's "sector norm" proposal. Its "sector norm" proposal, therefore, requires a focus not on "salary settlements", but rather on a "comparison of salary scales" (para. 1.1.12). Further, it says that general wage increases in the broad "health, education, social services" are, therefore, "not relevant" to this interest arbitration (para. 1.1.13).

[69] Second, the Faculty Association states that it "has not crafted its proposal on the basis of parity with the other research universities in British Columbia, nor does it accept the utility of comparison with those universities for the purpose of replication" (para. 1.2.12). It argues that the Faculty Association's proposals are not "breakthrough" proposals, but rather "modest sector norm proposals" (para. 1.3.1). It says that the circumstances of this case justify "an entirely new provision benefitting the union" (para. 1.3.5). This is a reference to the Union's Salary Grid proposal.

[70] Third, in terms of the appropriate comparators, the Faculty Association strongly opposes the comparison of UNBC to UVic. It states that the Faculty Association at UVic did not prosecute a strike in support of its demand.

[71] Fourth, the Faculty Association sets out a table (para. 2.2.3.2) that shows that the average UNBC Assistant Professor makes 75.7% of the average salary at the other BC Research Universities. It says that the average UNBC Associate Professor makes 74% of the RUCBC average, and that the average UNBC Full Professor earns 70% of the RUCBC average.

[72] Fifth, in terms of a specific comparison between UVic and UNBC, the Faculty Association adopts the benchmark approach set out in *St. Thomas, supra*. Its own comparative graph (para. 2.2.4.4) reads as follows:

	Mid-range of Assistant (4th grid step, or 4 years in rank)	Mid-range of Associate (8th grid step, or 8 years in rank)	Mid-range of Full (8th grid step, or 8 years in rank)	Senior Full Professor (13th grid step, or 13 years in rank)
UVic	82,620	101,835	119,835	131,800
UNBC	69,624	87,915	104,644	110,199

[73] The Faculty Association says that this table shows that a Mid-range Assistant Professor at UNBC is paid 84% in comparison to an Assistant Professor at UVic. An Associate Professor makes 86% of what the Associate Professor earns at UVic. A mid-range Full Professor earns about 87% of what a UVic Full Professor earns; and a Senior Professor earns about 84 % of what a similar Professor earns at UVic.

[74] Fifth, the Faculty Association argues that the Employer's compensation proposal will further increase internal and external inequities. It once again denies that its salary grid proposal represents a "breakthrough". The Union argues that the Employer mis-states the cost of the Union proposal, emphasizing cumulative rather than incremental costs.

[75] Sixth, in reply to UNBC's financial position the Union denies that the Employer is facing a structural deficit. It emphasizes the actual surpluses that UNBC has enjoyed over the past two years, averaging $4.2 million. It states that UNBC, in comparison to the other smaller undergraduate universities, receives more provincial funding per student than any of its national comparators. The Faculty Association agrees that there has been a decline in enrollment and tuition but states that this decline is relatively small, and thus represents a smaller portion of overall revenues. It argues that the decline in the Operating Grant is actually minor and that UNBC continues to "enjoy sizeable General Operating Fund surpluses" (para. 5.24.4). It states that there would have to be a "very drastic decline" in revenue, or an increased expense of millions of dollars, before a deficit would be incurred (para. 5.24.5)).

[76] The Faculty Association argues that UNBC's budgets need to be "understood as a political documents, particularly in years of contract negotiations" (para. 5.24.6). The Faculty Association states that UNBC enjoys "considerable discretion over cost saving measures such as the decision to hire and lay off employees, the decision to fund or not to fund self-determined priorities, etc." (para. 5.26.1). It also states that the UNBC's Board of Governors has the ability to make a "discretionary expenditure to give UNBC FA members industry-standard salaries rather than transferring surpluses to internally restricted funds" (para 5.26.6).

[77] Finally, the Union states that its 5 year demand is wholly dependent upon the acceptance of its proposed Salary Grid. If this Salary Grid is not accepted, then it is only agreeable to a two (2) year contract.

D. <u>Employer Reply – November 18, 2015</u>

[78] The Employer replies that the first contract arbitration process is not a forum designed to permit a party to make significant gains that they had not achieved in

negotiations. The parties' Faculty Agreement was a product of many years of negotiations and was continually ratified by its constituent members.

[79] The Employer re-emphasizes its argument that the appropriate comparators are the BC Research Universities. It agrees that the salary increments are an area of concern and it states that its proposal addresses these concerns. It strongly rejects the imposition of a salary grid and refers to it as a "lock step, seniority based compensation model" (para. 42), that does not reflect the norm within the BC Research Universities. It states that its compensation proposal is consistent with the compensation model at the other BC Research Universities.

[80] The Employer reiterates its claim that the Faculty Association's salary grid is a breakthrough provision as described in *Yarrow, supra*. UNBC refers once again to declining revenues, pending structural deficits, and the PSEC mandate, all of which limit its ability to meet the Faculty Association's demands. It estimates the cost of the Union's five year Salary Grid demand at $14.5 million, and the cost of its other outstanding demands at $7.7 million.

E. <u>Conclusion - Compensation</u>

[81] First, I will address the issue of comparators. I have concluded that the greatest weight should be assigned to provincial comparators, followed to a lesser degree by the national or extra-provincial comparators. My reasons are as follows.

[82] Both parties acknowledge that the original terms and conditions of employment for faculty at UNBC were set out in a Faculty Handbook that borrowed its terms and conditions from SFU, UBC and UVic. Under the *University Act,* these four universities are grouped together legislatively as research universities, as opposed to the special purpose, teaching universities. Two other provincial universities, Royal Roads University and

Thompson Rivers University, also maintain research activities in furtherance of their specific university programs. Thus, UNBC's legislative mandate, and the faculty's terms and conditions of employment, rationally link UNBC most closely to B.C.'s other research universities (UBC, SFU and UVic).

[83] Second, the negotiations and settlements at these other research universities in British Columbia are all subject to the same Provincial Government funding formula and the same PSEC guidelines. This also makes the settlements at the other research universities more compelling comparators than those reached by extra-provincial, small, primarily undergraduate universities.

[84] Third, UNBC is an integral part of the Prince George and surrounding economy, a significant public service funded by the Province of British Columbia, with a unique post-secondary purpose with respect to its educational programming, and its research mandate, both of which focus on the circumstances of Northern British Columbia. All of these factors point to UNBC's significance as a Northern BC research university, making B.C.'s. other research universities a more relevant comparator.

[85] A second tier of comparability are the other national educational institutions which the Faculty Association relies upon and which UNBC also acknowledges. An example where a national comparator would be employed would be in the circumstances where the universities in British Columbia lagged significantly behind comparable institutions in the rest of Canada. This, of course, would be an argument employed by all the research universities in this province. Moreover, there is a somewhat false divide between provincial and national comparators. Each of these research universities (UNBC, UBC, SFU or UVic) competes both nationally and internationally. Thus, any comparison amongst them implicitly incorporates the criteria of national and international comparators.

[86] Fourth, is the issue of Salary Grids and Career Development Increments. Both parties acknowledge that UNBC falls below the average of such increments both Provincially and nationally. The Faculty Association states that in 2014 – 2015 the average increments amongst its unionized national comparators was $2,691, as opposed to UNBC's increment of $1,111. The Employer states that the average increment amongst the six Research Universities of B.C. was approximately $1,716.

[87] To some degree each party's compensation proposal is conclusion driven. For example, there is no salary grid at the four research universities in British Columbia. The faculty salaries at these universities are generally based upon a floor and a ceiling - the minimum and maximum salary for each rank. The exception is UBC, which basis faculty salaries primarily on merit. Two of the six, UVic and Royal Roads, have agreed to the PSERC guidelines. UNBC relies upon a floor and ceiling model in its graphs to demonstrate that UNBC floors within ranks are comparable to the averages of BC's six research universities: Assistant Professor UNBC $64,069, average BC $62,757; salary floor for Associate Professor at UNBC was $77,916, the average in BC was $77,953; the salary floor for a Full Professor at UNBC was $94,645, and the average in BC was $93,926.

[88] Conversely, the Faculty Association relies upon national comparators because all of its comparators have adopted a salary grid. As stated, Salary Grids do not exist within the BC Research Universities. The introduction of a Salary Grid would result in substantial increases for the Faculty Association at UNBC, especially for the senior members of the Faculty Association. The Employer argues that the Faculty Association proposal is skewed towards its senior members, and is simply seniority based. The Faculty Association frankly acknowledges that a junior member may receive no increase under its salary grid proposal while a senior member may receive as much as $20,000 or more a year in increased salary.

[89] I conclude, similar to Arbitrator Outhouse in *St. Thomas University, supra,* that the best way to compare salaries is on the basis of benchmark positions. As Arbitrator Outhouse notes, this method is widely used and accepted. The Faculty Association put forward benchmarks, set out in the *St. Thomas, supra,* based upon the mid-range of Assistant, Associate and Full Professors ranks. UNBC has set out the effect of its general wage increase with respect to these benchmarks. They did so on the basis of eliminating their proposals with respect to enhanced Career Development Increments and Merit Pay, directing all their proposed increases to a general wage increase. That table appears as follows:

Benchmark	Assistant (4 yrs in rank)	Associate (8 yrs in rank)	Full (8 yrs in rank)	Full (13 yrs in rank)
		UNBC		
Current	69,624	87,915	104,644	110,199
*May 1/19	75,847	95,773	113,997	120,048
UVic (using the benchmarks provided by the Faculty Association				
Current	82,620	101,835	119,835	131,800
**May 1/19	87,742	108,149	127,265	139,972
Current Difference	(12,996)	(13,920)	(15,191)	(21,601)
May 1/19 Difference	(11,895)	(12,376)	(13,268)	(19,924)
Change	(1,101)	(1,544)	(1,923)	(1,677)

NOTES:
* After applying the value of UNBC's last proposal entirely to GWIs
** After applying the GWIs identified in the published description of UVic's 2014 – 2019 settlement.

[90] The increases in these benchmarks for UNBC faculty are based upon an increase of 8.9%.

[91] I have concluded that I will not award a Salary Grid at UNBC. Such a grid system does not exist in British Columbia. Under *Yarrow, supra,* a grid system would constitute a breakthrough provision in British Columbia. The Faculty Association correctly captures its own proposal, describing it as a "remapping" of the current compensation system. If such a remapping is to take place it is one that would require both parties to make the appropriate compromises to reach such a new compensation model. A remapping of the current compensation model should not be imposed by a third party based upon the sole proposal of one of the parties to this collective agreement. It is significant that the current compensation system has been jointly designed and agreed to by the parties. Furthermore, it has been continually ratified by the Faculty Association in six rounds of collective bargaining over approximately 20 years. Indeed, with respect to the Faculty Agreement of July 1998 – June 30, 2001, the faculty voted 87% in favour of ratification; with respect to the July 2004 – June 2006 Faculty Agreement, the faculty voted 89% in favour of ratification; and with respect to the July 2010 – June 30, 2012 Faculty Agreement, there was 85% vote in favour of ratification.

[92] Next is the issue of the PSEC mandate.

[93] The *Public Sector Employers Act*, R.S.B.C. 1996 c.384 establishes the Public Sector Employer Council (PSEC). As stated, PSEC establishes the mandate for all public sector employers in collective bargaining in British Columbia, setting out the maximum allowable changes in employee compensation. PSEC's current Economic Stability Mandate prescribes a five year term, and a general wage increase over those five years of 5.5%. PSEC has informed the University that the government will not fund any settlement, or any arbitral award, in excess of this general wage increase of 5.5%. UNBC, therefore, must find additional monies to fund any settlement, or arbitration award, if that agreement or award is in excess of the PSEC mandate.

[94] Both parties acknowledge that the PSEC mandate does not have legislative force. Arbitrator Kelleher, (now BC Supreme Court Justice Kelleher), in *University of Victoria and University of Victoria Faculty Association,* [1996] B.C.C.A.A.A. No. 162, Arbitrator Taylor in his *UBC* Award*,* July 24, 2013, and Arbitrator Vince Ready in his *UNBC* Award*,* February 4th, 2014, all came to the same conclusion: that they were not bound by the PSEC mandate. Arbitrator Ready in *UNBC*, *supra*, concluded that the PSEC mandate was an "aspect of the general economic situation facing these and other parties engaged in public sector negotiations throughout the Province of British Columbia" (page 9).

[95] Interest arbitrators are independent third parties that are guided by the principles of arbitral jurisprudence; for example, the principle of replication and what is fair and reasonable. One of the most important objective factors, in the application of these principles, is the comparison to other settlements with respect to similar employees performing similar work. In this case, this involves the rational matching of the terms and conditions of employment at comparable universities.

[96] UNBC is a public sector employer. It is financed pursuant to a budget constructed by government. A government devises a budget pursuant to its right and responsibility to manage public monies. On the one hand, interest arbitrators are not simply the agents of government who enforce budgets or the economic mandates imposed by government. However, the economic mandates set by government must be given serious consideration by interest arbitrators. To ignore such mandates would be to potentially put public sector employers and employees at risk. This may not be akin to putting a private sector employer existence at risk, but at a minimum, it does potentially put in jeopardy the quality of services offered by, in this case, an educational institution.

[97] As an interest arbitrator I do not sit in the place of either the administration of the University or the Board of Governors. I do not second guess what amounts may be put into

scholarships and awards, into library services, or into the maintenance and repairs of buildings. If a public sector employer has acted in good faith, has exercised its discretion reasonably, an interest arbitrator will not second guess specific expenditures. And, if the economic mandate set by the public sector employer objectively reflects the settlements reached by similar employees performing similar work, then that economic mandate will be given serious weight.

[98]   Conversely, should the economic mandate of the public sector employer not reflect the settlements of similar employees performing similar work, and/or it has not acted in good faith, or it has not exercised its discretion reasonably, then its economic mandate will be given little weight.

[99]   An additional consideration that affects interest arbitration is that it should never be seen as an incentive to either party. As stated in *Yarrow, supra,* (pages 24 – 29), interest arbitration can have a "chilling or corrosive effect" on free collective bargaining if contracting parties know that a third party will decide their final terms and conditions of employment. As a result, the parties may be unwilling to make the necessary compromises to reach a freely bargained collective agreement. For example, a trade union could conclude that it would never agree to a government's economic mandate because it could always go to interest arbitration, where an interest arbitrator might award more than the economic mandate. This would soon convert free collective bargaining into an interest arbitration scheme. That is not desirable public policy.

[100]   It is helpful to reproduce the current economic mandate of PSEC:

July 1, 2014	0.0%
July 1, 2015	1.0%
May 1, 2016	Economic Stability Dividend
July 1, 2016	0.5%
May 1, 2017	1.0% + Economic Stability Dividend
July 1, 2017	0.5%
May 1, 2018	1.0% + Economic Stability Dividend
July 1, 2018	0.5%
May 1, 2019	1.0% + Economic Stability Dividend

[101] This mandate constitutes a five year agreement with a total general wage increase of 5.5% over those five years. The Employer acknowledges that UNBC Faculty lags behind the other three research universities in British Columbia. Initially, they proposed to deal with UNBC faculty salaries by employing increased increments in the form of Enhanced Career Development Increments and Merit Pay. However, the Faculty Association has resisted both these approaches. As a result, the Employer in its final offer, decided to take the additional 4%, originally assigned to Enhance Career Development Increments and Merit Pay, and fold it into a general wage increase. This 4% was to be divided into 1% increases over the last four years of the proposed five year collective agreement for a total of 9.5%. It says that both these amounts are within the PSEC guidelines.

[102] I have concluded that I will award the 9.5% general wage increase, plus an additional 0.5%, for a total of 10% over the five years. In addition, the Faculty Association has the ability to earn the added Economic Stability Dividend over and above this particular increase. I attach as Appendix II the Economic Stability Dividend language which entitles the parties to any potential dividends. It is incorporated into the parties' First Collective Agreement. It should be noted that in November 2015, the Government declared an Economic Stability Dividend of 0.45% (over and above the 5.5% of the PSEC mandate).

[103] This additional 4.5% (over the 5.5%) can be seen as "catch up", in which faculty salaries at UNBC not only do not fall further behind, but begin the process of reducing the difference between UVic and UNBC faculty salaries. The University states that the cost of the 9.5% increase would be approximately $4,529,000 over the five year term (para. 12, November 6, 2015). The Employer costs the Union's compensation proposal at approximately $14.5 million over the five year term.

[104] As stated, the Employer's benchmark salary comparison between UNBC and UVic was based on a general wage increase of 8.9%. The actual increase will now be 10%, thus beginning the further process of reducing the difference in faculty salaries between UNBC and UVic. The Union, in its final reply, resiled from its benchmark comparison with UVic. It says that other factors, such as Merit Pay, and differential productivity increases, result in higher increases for UVic faculty. However, notwithstanding that the Faculty Association has rejected both Merit Pay and productivity increases, benchmarks represent a fixed point on a salary scale that provide a standardized comparison with other institutions. As previously stated, such benchmarks are widely accepted.

[105] The 10% increase awarded over the five years shall be implemented as follows:

July 1, 2014	0%
July 1, 2015	1.5%
May 1, 2016	Economic Stability Dividend
July 1, 2016	1.5%
May 1, 2017	1.0% + Economic Stability Dividend
July 1, 2017	1.5%
May 1, 2018	1.0% + Economic Stability Dividend
July 1, 2018	1.5%
May 1, 2019	2.0% + Economic Stability Dividend
	10.0%

[106] Four additional matters. As is clear, the duration of the new Collective Agreement is for a period of five years. Second, the general wage increases apply to Part Time Faculty who are members of the Faculty Association. Third, the Employer proposes a Joint Committee to examine the issue of compensation. Compensation has proven to be a contentious issue, not just the amount, but also the model of compensation. A Joint Committee therefore has merit. I attach the Employer's proposal as Appendix 3. It forms part of the parties' new First Collective Agreement. Finally, but for changes made in this Award, Article 48, Compensation, in 2012 – 2014 Faculty Agreement, remains the same and is incorporated into the parties' First Collective Agreement.

VII. Market Adjustment

[107] Both parties acknowledge that the current market differential policy is the result of a joint Faculty Association and University committee. Market adjustment, or market differential, refers to enhanced salaries paid to both recruit and retain potential faculty members capable of earning a greater salary in the private sector. Market differentials are paid primarily in three faculties: Nursing, Social Work and Business. The Employer wants to retain its discretion to offer market adjustments to prospective faculty.

[108] The Union opposes the Employer's current proposal. The Union proposes to restrict market adjustments or differentials to 2.5% of the total salary expenditures paid to faculty. In addition, it would limit any specific market differential to an individual to $20,000. Finally, the Faculty Association says that there are gender inequities in the application of market differentials - more men than women receive the market differential. As of November 2014, the Union says that eight more men than women received market differentials, and that there was an average of $5,000 more paid to men than women.

Finally, the Union argues that a market adjustment policy represents a breakthrough provision.

[109] First, I do not consider the matter of a market adjustment a breakthrough provision. The parties currently have such an agreed upon joint policy. Second, I am persuaded that market differential is important to the recruitment and retention of faculty members. Third, the likelihood of gender differences is most likely related to the hiring of Business faculty, rather than in the Nursing and Social Work schools. Seventeen (17%) percent of UNBC's students are enrolled in the Business School. Gender difference is a fundamental issue with respect to hiring. However, it does not impune the principle of market differential, which is currently applicable to both the Nursing and Social Work Programs. I therefore award the following language proposed by the Employer:

> I.1.1.2 Floors and ceilings for the nominal salaries for each of the academic ranks (Lecturer, Assistant Professor, Associate Professor, and Professor) and floors and ceilings for each of the Librarian ranks (Librarian I, II, III, and IV) and floors and ceilings for each of the levels of Senior Lab oratory Instructor (SLI I, II, III) will be established as described in Appendix I-1.A. Normally, no nominal salary at any rank shall exceed the ceiling, nor be below the floor, except that salaries already above the ceiling shall not be adjusted downwards. The parties recognize and accept that market conditions may arise which require the University, on application by a member or member designate, to offer a stipend in excess of the applicable nominal salary, called a "Market Differential, in order to maintain the viability of a Program. The Market Differential shall be agreed upon by the Provost and the member or member designate in conformity with the terms of the University's Market Differential Policy ("Policy"), as amended from time to time. The Policy does not form part of this collective agreement. The amount of any market differential granted by the Provost will be stated and identified as such in a letter from the Provost to the Member or Member designate. A market differential may be reduced in conformity with the provisions of the policy.

VIII. Benefits: Article 19(a) Memorandum of Understanding on Post-Retirement Benefits

[110] The Union proposes the establishment of a Joint Committee to study post-retirement benefits. It states that 41% of its membership is 55 years of age or older; in addition, 7% are over the age of 65 (para. 7.1.5, November 6, 2015). I have concluded that a Joint Committee should be established. It is to be advisory in nature. There is nothing in this proposal that requires the Employer to contribute additional monies to a post-retirement benefit. I adopt the following language proposed by the Union:

> Post-Retirement Benefit Plan
>
> The parties agree to establish a joint working group on post-retirement benefits. The purpose of this working group will be to make recommendations to the Joint Committee on optional post-retirement benefit plans for Retired Members. This may include, but is not limited to, converting the existing Post-Retirement Medical/Dental Fund into a cost-sharing plan. In the event of such a conversion, the University's contribution to post-retirement benefits shall not be less than the amount currently paid into the Fund. The joint working group will report within six (6) months of its appointment.
>
> The joint working group shall consist of two (2) persons named by and representing the Association, two (2) persons named by and representing the Employer, and one (1) chair of the joint working group jointly appointed by the other four (4) members.

IX. Pension and Benefits

Article 50

[111] UNBC's final proposal incorporates the existing language of the Faculty Agreement into the parties' First Collective Agreement.

[112] The Faculty Association's proposal seeks the following: first, that eligibility for all benefits be open to all members as opposed to only full time members; second, with respect to the waiver of tuition, this benefit should be extended to common law spouses, same sex spouses, and non-dependent step children of Faculty Association members; third, the eligibility period for member spouses and children should be extended for a period of eight years after the member's retirement or death; fourth, part-time instructors should be eligible; fifth, there should be no reference to eligible courses. Finally, the medical service travel fund should be increased by $5,000 per year (the parties have agreed to this travel fund increase).

[113] UNBC has costed the Faculty Association proposal with respect to Article 50 at $4,907,964 over the five year period (para. 257, November 6, 2015).

[114] I conclude that the existing language of the 2012 – 2014 Faculty Agreement (pages 202 – 209) should be included into the renewed First Collective Agreement with the exception of the following changes: first, I extend the tuition waiver provision to include same sex spouses, common law spouses and stepchildren of faculty members; and second, I increase the medical travel fund by $5,000 per year.

X. Article 61 – Sick Leave

[115] UNBC proposes to incorporate the existing language of the Faculty Agreement into the parties' First Collective Agreement.

[116] The Faculty Association proposes four changes to the existing plan; first, that paid sick leave be increased from 60 to 180 days per illness or accident; second, they propose that a "top up" payment be made to any compensation received by a faculty member under the Workers Compensation Act to 100% of a members' salary; third, that the Sick Leave Plan provide for a two year leave of absence for health reasons when a member does not qualify for long term disability; fourth, that the Plan add a provision providing for sick leave during the term of a sabbatical, academic, professional or study leave, with the option of extending that relevant leave for the same period as the sick leave, or requesting an equivalent carry forward credit for future leaves.

[117] Finally, the Faculty Association proposes that the sick leave policy be updated to include mental illness, and drug and alcohol addiction.

[118] The Employer calculates the Faculty Association's proposal with respect to this Article at $1,491,351 over a five year term.

[119] I conclude that the existing language in the 2012 – 2014 Faculty Agreement (pages 229 – 231) shall be incorporated into the First Collective Agreement with the following exception: an eligible illness under the sick leave policy shall include mental illness and alcohol and drug addiction.

XI. <u>Additional Leaves:</u>

<u>Article 54 Sabbaticals;</u>
<u>Article 55 Academic or Professional Leave for Librarian and Senior Lab Instructor Members;</u>
<u>Article 56 Assisted Study Leave</u>

[120] I will briefly summarize all three issues.

[121] The Employer for the most part, with one exception, proposes that the existing language of the Faculty Agreement be imported in the First Collective Agreement with regard to all three articles.

[122] The Union proposes that all three benefits increase. For example, with respect to sabbatical leaves it seeks an increase in the salary coverage from 80 – 85%; and with respect to assisted study leave, it seeks an increase in financial assistance from 50% to 85%.

[123] The Employer calculates the total cost of the Faculty Association's proposal over the five year term at $555,241, $299,245 and $259,831, respectively.

[124] I conclude that the existing language in the 2012 – 2014 Faculty Agreement with respect to Articles 54, 55, and 56 be incorporated into the First Collective Agreement without changes. (Pages 216 – 224 of the 2012 – 2014 Faculty Agreement)

XII. Tenure and Promotion Issues: Articles 22, 23 and 24

[125] I stated to the parties during the hearing of this matter, that unless there was a consensus with respect to these three Articles, I would make no changes and incorporate the existing language of the Faculty Agreement into the parties' First Collective Agreement. The current language with respect to tenure and promotion has been developed jointly by these parties over the last twenty years. They are the experts with respect to policies of tenure and promotion within the University.

[126] The parties were unable to agree to proposed changes. I therefore incorporate Articles 22, 23 and 24 of the existing Faculty Agreement into the parties' First Collective Agreement. (2012 – 2014 Faculty Agreement, pages 89 – 111)

XIII. Article XX – Member Protection in the case of strike by another Union

[127] The Faculty Association proposes standard labour relations language that protects its members during a strike involving another bargaining unit at the University. For example, CUPE Local 3799 is certified for support workers, tradespeople, supervisors and English Language Studies Associates at UNBC.

[128] I award the following language as proposed by the Faculty Association:

> Strike/Lock-out Protocols
>
> Members' Rights during Strikes by another Bargaining Unit
>
> A Member shall have the right to refuse to cross a legal picket line of another bargaining unit at any one of the University campuses. The exercise of this right shall not be considered a violation of this Agreement, nor shall it be grounds for disciplinary action.
>
> Members shall not perform the work of striking employees nor handle the work normally performed by other employees during any dispute between those employees and the Employer.

XIV. Duration of the Agreement

[129] As stated, the duration of this First Collective Agreement is five years. The term shall be from July 1, 2014 to June 30, 2019. I make the following additional comments with regard to the duration of this First Collective Agreement that address the current collective bargaining relationship between the parties.

[130] The policy in *Yarrow, supra* is that the duration of a first collective agreement ought to be a minimum of 2 years. These parties began bargaining in 2012 for the renewal of a

Faculty Agreement with a term starting July 1, 2012. Ultimately, that set of negotiations ended in an interest arbitration before Arbitrator Ready who issued his award on February 4th, 2014. However, that Collective Agreement expired on June 30, 2014. The Faculty Association had certified several months earlier, in April 2014, and the parties began negotiating their first collective agreement in May 2014. A strike commenced March 5, 2015, continued until March 19, 2015, when the dispute was referred to interest arbitration. The parties have had approximately 49 days of negotiations. Finally, there has been this interest mediation/arbitration, which began with meetings in July 2015.

[131] Under the statutory scheme of labour relations in this province, and in all other provincial and federal jurisdictions, there are two points of potential statutory conflict: the grievance/arbitration process and strikes and lockouts. Within this context the parties are able to exercise their statutory rights in pursuit of their legitimate differences. These parties have been in negotiations for almost four years. Thus, a five year agreement will provide the parties with stability, and an opportunity to develop a relationship outside the context of adversarial bargaining.

[132] During the life of collective agreements many parties establish labour/management committees in an effort to develop cooperative labour relations outside these two points of statutory conflict. Indeed, under Section 53 of the *Code,* there is a requirement that the parties establish a joint consultation committee. This provision now applies to this newly certified collective bargaining relationship. Section 53(4) states the following:

> (4) The purpose of the consultation committee is to promote the cooperative resolution of workplace issues, to respond and adapt to changes in the economy, to foster the development of work related skills and to promote workplace productivity.

[133] In addition, the BC Labour Relations Board offers a mediation program whose primary purpose is the development of better labour relations between the parties. That

program is known as the Relationship by Objectives (RBO) mediation program. It is my conclusion, after observing these parties, that they would benefit from such a program. I therefore recommend that these parties undertake such a mediation program.

XV. Definitions

[134] The current definitions, found on pages 2 – 7 of the 2012 – 2014 Faculty Agreement, are incorporated into the parties First Collective Agreement.

XVI. Article 74 – Transition Language

[135] Pages 250 – 251 of the current 2012 – 2014 Faculty Agreement are deleted and new transition language is to be negotiated by the parties. Should the parties be unable to agree upon the transition language this matter will be referred back to this Arbitrator.

XVII. Numbering

[136] The parties' First Collective Agreement shall use the numbering from the 2012 – 2014 Faculty Agreement.

[137] It is so Awarded.

[138] I retain jurisdiction.

[139] Dated in the City of New Westminster in the Province of British Columbia this 16th day of December, 2015.

Stan Lanyon

Stan Lanyon, Q.C.

APPENDIX 1

For the convenience of the Arbitrator, we have included an index of signed off articles and identified whether the article was carried over* or changed** from the 2012-2014 Agreement, as well as new articles.

Article #	***Carried Over***	***Changed***	***New***	***Article Name***
1 (A-1)		x		Purpose Statement
2(X)		x		Academic Freedom
3(A-6)	x			Openness and Transparency
4(I-2)		x		Access to Information
5(A-3)		x		Conflict of Interest, Apprehension of Bias and Related Matters
6(A-7)		x		Existing Practices
7(A-8)		x		Non Discrimination
8(A-5)		x		Security of Employment
9(H-1)		x		Program Redundancy
10(H-2)	x			Financial Exigency
12(C-1,C-9)		x		General Appointment Procedures; Research Chairs Appointment Selection Committee
13(C-2)	x			Appointment of Faculty
14(C-3)		x		Term Appointments of Teaching Members (Excluding Senior Laboratory Instructors and Librarians
15(C-4)		x		Appointment of Librarians
16(C-5)		x		Appointment of Senior Laboratory Instructors
17(C-6)	x			Appointment of Regional Chairs
18(XX)	x			Academic Appointments of Academic Administrators
19(C-12)		x		Retirement, Resignation and Alternation of Employment
20(E-1)		x		Personnel Files
21(E-2/E-2B/E-2C)		x		Professional Activity Reports
26(E-6)		x		Promotion and Continuing Appointment of Senior Laboratory Instructor Members
28		x		Professional Development Allowance
29(D-3)	x			Duties, Rights and Responsibilities of Faculty Members
29(K-1)		x		Memorandum of Understanding: UNBC Travel Services
30(D-4)		x		Teaching Workload
31(D-7)		x		Librarian Members' Duties, Responsibilities and Workload
32(C-8)		x		Program Chairs
33(D-13)		x		Memorandum of Understanding: Regional Chairs
35(D-5)	x			Duties, Rights and Responsibilities and Teaching Workload of Senior Lab Instructor Members
36(C-11)	x			Reassignment

37(D-9)	x			Reduced Workload
38(D-11)		x		Outside Professional Activities
42(G-1)		x		Harassment and Discrimination
43(G-3)	x			Fraud and Misconduct in Academic Research
44(G-4)		x		Complaints, Grievances and Arbitration
46(J-7)			x	No Strike or Lockout
47(J-1)		x		Joint Consultation Committee (JCC)
49(I-8)	x			Salary Anomalies
51(I-3)		x		Relocation Tenure-Track, Tenured, Probationary & Continuing Members
52(I-9)	x			Childcare
53(I-7) 53((I-6)	x x			Vacation Entitlement Holidays
57/58(X)		x		Maternity Leave and Parental Leave
59(F-5)	x			Compassionate and Bereavement Leave
60(F-6)	x			Court Leave
62(F-8)		x		Leave of Absence; Memorandum of Understanding: Regional Chairs
63(XA)		x		Recognition (A) Definition of the Bargaining Unit
63(B-4)		x		Recognition (B) Positions Excluded from the Bargaining Unit
64(B-3)		x		Association Rights
65(J-3)	x			Association Facilities
66(B-5)		x		Assignment of Association Fees, Dues and Assessments
67(B-5)		x		Management Rights
68(MOU)				***Outstanding Articles that the parties agreed to establish a committee to review upon ratification of the Agreement:*** Article 11: Employment Equity Article 27: Working Conditions Article 34: Duties, Rights and Responsibilities of Instructors Article 39: Intellectual Property Article 45A/B: Investigations/Discipline Article 65/76: Accommodating Diversity/Accommodation of Members with Disabiliteis

*"*Carried over*" reflects the same language from the 2012-2014 Agreement, corrected article reference numbers, or converting 'University' to 'Employer'

"*Changes*" reflects language changes other than formatting, corrected article reference numbers, or converting 'University**' to '**Employer**'

APPENDIX 2

APPENDIX I-1D

Economic Stability Dividend

Definitions

I. In this Agreement:

"Collective agreement year" means each twelve (12) month period commencing on the first day of the renewed collective agreement. For example, the collective agreement year for a collective agreement that commences on April 1, 2014 is April 1, 2014 to March 31, 2015 and each period from April 1 to March 31 for the term of the collective agreement.

"Economic Forecast Council" means the Economic Forecast Council appointed under s. 4 of the Budget Transparency and Accountability Act, [S.B.C.2000]c.23;

"Forecast GDP" means the average forecast for British Columbia's real GDP growth made by the Economic Forecast Council and as reported in the annual February budget of the government;

"Fiscal year" means the fiscal year of the government as defined in the Financial Administration Act [1996 S.B.C.] c. 138 as 'the period from April I in one year to March 31 in the next year';

"Calendar year" is a twelve (12) month period starting January 1st and ending December 31st of the same year based upon the Gregorian calendar.

"GDP" or "Gross Domestic Product" for the purposes of this LOA means the expenditure side value of all goods and services produced in British Columbia for a given year as stated in the BC Economic Accounts;

"GWI" or "General Wage Increase" means a general wage increase resulting from the formula set out in this LOA and applied as a percentage increase to all wage rates in the collective agreement on the first pay day after the commencement of the ninth (9th) month in a collective agreement year;

"Real GDP" means the GDP for the previous fiscal year expressed in constant dollars and adjusted for inflation produced by Statistics Canada's Provincial and Territorial Gross Domestic Product by Income and by Expenditure Accounts (also known as the provincial and territorial economic accounts) and published as "Real Gross Domestic Product at Market Prices" currently in November of each year.

The Economic Stability Dividend

2. The Economic Stability Dividend shares the benefits of economic growth between employees in the public sector and the Province contingent on growth in BC's real GDP.

3. Employees will receive a general wage increase (GWI) equal to one-half (I /2) of any percentage gain in real GDP above the forecast of the Economic Forecast Council for the relevant calendar year.

4. For greater clarity and as an example only, if real GDP were one percent (I%) above forecast real GDP then employees would be entitled to a GWI of one-half of one percent (0.5%).

Annual Calculation and publication of the Economic Stability Dividend

5. The Economic Stability Dividend will be calculated on an annual basis by the Minister of Finance for each collective agreement year from 2015/2016 to 2018/2019 and published through the PSEC Secretariat.

6. The timing in each calendar year will be as follows:

   (i) February Budget - Forecast GDP for the upcoming calendar year;
   (ii) November of the following calendar year - Real GDP published for the previous calendar year;
   (iii) November - Calculation by the Minister of Finance of fifty percent (50%) of the difference between the Forecast GDP and the Real GDP for the previous calendar year;
   (iv) Advice from the PSEC Secretariat to employers' associations, employers and unions of the percentage allowable General Wage Increase, if any, for each bargaining unit or group with authorization to employers to implement the Economic ~~Growth~~ **Stability** Dividend.

7. For greater clarity and as an example only:

   For collective agreement year 3 (2016/17):

   (i) February 2015 - Forecast GDP for calendar 2015/16;
   (ii) November 2016 - Real GDP published for calendar 2015/16;
   (iii) November 2016 - Calculation of the fifty percent (50%) of the difference between the 2015 Forecast GDP and the 2015 Real GDP by the Minister of Finance through the PSEC Secretariat;
   (iv) Direction from the PSEC Secretariat to employers' associations, employers and unions of the percentage allowable General Wage Increase, if any, for each bargaining unit or group with authorization to employers to implement the Economic ~~Growth~~ **Stability** Dividend.

Availability of the Economic Stability Dividend

8. The Economic Stability Dividend will be provided for each of the following collective agreement years: 2015/16 (based on 2014 GDP); 2016/17 (based on 2015 GDP); 2017/18 (based on 2016 GDP); and, 2018/19 (based on 2017 GDP).

Allowable Method of Payment of the Economic Stability Dividend

9. Employers must apply the Economic Stability Dividend as a percentage increase only on collective agreements wage rates and for no other purpose or form.

UNBC UNIVERSITY OF NORTHERN BRITISH COLUMBIA

Memorandum of Understanding

November 27, 2015

Preamble

After the first 25 years in UNBC's history, and to ensure the long term success of the organization, it is important to ensure that the compensation philosophy and strategy supports the recruitment and retention of outstanding Faculty, Librarians and Senior Lab Instructors.

Objective of the Agreement

The parties acknowledge that a comprehensive review of the current compensation model would be a valuable undertaking to ensure that the compensation model in the Collective Agreement between the University and the Faculty Association meets the interests of the Faculty, Librarians and Senior Lab Instructors and the University. The re-design of compensation is a complex exercise and one that is difficult to achieve through a traditional bargaining exercise. The design of the model needs to be separated from the allocation of funds to the model to ensure that over time the structural goals are achievable regardless of any new funding that may come into the system.

In order to facilitate an improved relationship at the next round of collective bargaining, the parties agree to the following:

- the parties will establish a working committee with the purpose of re-designing the compensation model
- the working committee will begin its work six months after the date of the award
- the parties will assign membership to the working committee which may or may not include bargaining team representatives
- the parties will commit to clearly articulating their interests and to respecting and understanding each other's underlying interests
- the working committee will take a principled and structural approach to design
- the working committee will not have a financial mandate; rather its goal will be to consider long term outcomes through a re-designed model
- the desired outcome is a non-binding joint recommendation to the bargaining teams for consideration at the next round of bargaining; failing a joint recommendation, the parties will forward their progress to date to the bargaining teams
- Collective agreement language to support the new compensation model will be will be negotiated in the next round of bargaining, not prepared by the working committee

/