

AGREEMENT

BETWEEN:

THE UNIVERSITY OF BRITISH COLUMBIA,

the “University”

AND:

**THE UNIVERSITY OF BRITISH COLUMBIA FACULTY
ASSOCIATION,**

the “Association”
(collectively, the “parties”)

RE:

**AGREEMENT ON CONDITIONS OF APPOINTMENT
FOR SESSIONAL AND PART-TIME FACULTY MEMBERS**

the “Sessional Agreement”

Whereas:

- i) On January 11, 2011, the parties entered into an agreement to arbitrate differences regarding the assignment of courses to Sessional Faculty Members, and to appoint Rod Germaine as the Arbitrator.
- ii) Following meetings on August 19, September 13 and November 7, 2011, and an exchange of written submissions, the parties agreed to meet on January 4, 5 and 6, 2012, for pathway to resolution discussions.
- iii) Following a further exchange of written submission, the parties engaged in pathway discussions on January 4 and 5 with the assistance of the Arbitrator.
- iv) As a result of the written submissions and pathway discussions, the parties have resolved almost all of their differences, and wish to record their agreement before proceeding to arbitrate the remaining unresolved issue.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. “Article” in this Agreement means an Article in the Sessional Agreement.

2. In accordance with Article 1.2, all references in this Agreement to a course or teaching a course shall include the alternative equivalent of performing related duties such as course coordination or laboratory supervision.
3. A person who applies to work as a Sessional Lecturer (an “Applicant”) becomes a Sessional Faculty Member upon receiving an initial appointment.
4. An “appointment” or “reappointment” is an engagement to teach and must be accompanied by an assignment to teach at least one course. The right of appointment or reappointment is the right to an assignment to teach one course.

Reappointment

5. Sessional Faculty Members with a Continuing Appointment (“CSs”) are entitled to reappointment under Articles 3.1 and 5.2(a). This entitlement is accompanied by the right to an assignment to a minimum course load (“individual course load entitlement”) under Article 5.2(b).
6. Sessional Faculty Members without a Continuing Appointment (“NCSs”) are entitled to reappointment under Article 3.1. This entitlement is accompanied by the right to an assignment to teach one course each academic year (from July to June) in accordance with the Sessional Agreement.
7. Pursuant to Article 3.1, reappointment is a right “as a general principle” in the sense that it is subject to courses being available. It is also subject to:
 - i) the CS or NCS holding the necessary qualifications to teach the course within the meaning of Article 6.1 (subject to paragraph 22(iv) where applicable); and
 - ii) the CS or NCS applying to teach the course.

Non-Continuing Sessionals’ priority in relation to Applicants

8. NCSs shall be assigned courses to satisfy their right to reappointment before any Applicant is appointed or assigned a course in any academic year.

Course load

9. Pursuant to Article 6.2(b), CSs shall be assigned courses in priority over NCSs to the extent necessary to provide CSs with their individual course load entitlement.
10. A CS may be assigned courses in addition to the CS’ individual course load entitlement. Pursuant to Article 5.5, such additional courses do not affect the nature of the continuing appointment, except in accordance with Article 5.6.

11. A NCS may be assigned more than one course per academic year. NCSs do not acquire any priority claim or right to a course load based on such additional course assignments or based on what was assigned in any previous year.

Rights in the winter and summer sessions

12. The individual course load entitlement of a CS should be received during the winter session by implication of Article 5.2(a). If it is, the CS is not entitled to appointment or any course load or course assignment in the summer session. However, a CS may be assigned additional courses in the summer session, to which paragraph 10 shall apply.
13. If, however, the individual course load entitlement is not received in the winter session, the CS:
 - i) is entitled to appointment in the summer session and to be assigned courses in priority over NCSs to the extent necessary to ensure the individual course load entitlement is received during the academic year; and
 - ii) may be assigned additional courses in the summer session, to which paragraph 10 shall apply.
14. Courses assigned to a CS in the summer session pursuant to paragraph 13(i) shall be included in the CS's individual course load entitlement for the purposes of Article 5 but shall not create a right to assignment of courses in the summer session in the future.
15. The right of a NCS to reappointment is unchanged throughout the academic year. Whether the course assignment is in the winter session or the summer session, it is a right to teach one course per academic year.

Externals

16. The University has the right to appoint non-bargaining unit faculty ("Externals") to teach courses. There is no contractual obligation on the part of the University to assign all work that could be performed by Sessional Faculty Members to bargaining unit members.
17. The University decides, in its sole discretion, what work will be allocated to the "Sessional Courses Pool", as this term is defined in paragraph 22(iii) below.
18. In determining the work to be allocated to Externals and to Sessional Faculty Members, the University must apply its policies fairly, and not in an unreasonable, discriminatory or arbitrary manner.

19. The Sessional Agreement pertains to work assigned to Sessional Faculty Members and the work allocated to the Sessional Courses Pool (see paragraph 22(iii) below) for distribution to Sessional Faculty Members.
20. If no Sessional Faculty Member in the Department and no Applicant is qualified to teach a course in the Sessional Courses Pool, the course may be assigned to an External.
21. Having regard to paragraphs 17 and 18 above, the Association is entitled to request and receive a written explanation if one or more CSs do not receive their individual course load entitlement and/or one or more NCSs do not receive their assignment of one course in accordance with their right of reappointment. If the Association is not satisfied with the Department's explanation, it may grieve on the ground(s) that the University did not meet either or both of its obligations to:
 - i) act in good faith so as to respect the integrity of the Association's bargaining unit; and
 - ii) apply its policies fairly, and not in an unreasonable, discriminatory, or arbitrary manner.

Distribution of courses to Sessional Faculty Members

22. Pursuant to Article 6.5, the Department Head includes CSs "in existing departmental processes used to determine course loads and course assignments for the upcoming academic year in the same way and at the same time as tenured and tenure-track faculty are included in those processes". Pursuant to the Sessional Agreement and this Agreement, the process by which courses are distributed to Sessional Faculty Members is:
 - i) First, the Department Head assigns courses to the teaching and professoriate streams including 12 month lecturers.
 - ii) Second, the Department Head assigns courses to CSs to meet their individual course load entitlements.
 - iii) Third, the Department allocates the remaining courses to either:
 - a) a pool of courses designated by the Department for assignment to Sessional Faculty Members (the "Sessional Courses Pool"), or
 - b) a pool of courses designated by the Department for assignment to Externals.

- iv) Fourth, each NCS is reappointed with an assignment to teach at least one course in the Sessional Courses Pool. The courses are assigned to the NCSs in accordance with Article 6.1 as far as possible; the prescribed criteria for assignment are subject to modification only the extent necessary to ensure the reappointment of every NCS in the department.
- v) Fifth, courses which remain to be assigned (the “Leftover Courses”) are assigned to Sessionals with less than a full-time course load and to Applicants. The one unresolved issue for determination by arbitration arises here. It is whether Applicants must compete with Sessional Faculty Members for an initial course assignment.

On the University’s interpretation, it is entitled under Article 2.6 to appoint an Applicant to teach one course without regard to Article 6.1, although beyond this single course the University recognizes the new NCS must compete for course assignments under Article 6.1.

The Association’s interpretation is that Article 6.1 applies to all course assignments at this stage, with each course being assigned to either a Sessional Faculty Member or an Applicant according to the criteria in Article 6.1.

Courses which subsequently become available / Article 6.4

- 23. In the event that courses become available after the initial course assignments within a Department have been made, for reasons such as previously unscheduled leaves of absence, the addition of course sections, rearrangement of schedules or teaching assignments within a Department, Sessional Faculty Members with less than full-time appointments within the Department will be notified of these course offerings and have first priority to such courses, subject to the criteria in Article 6.1.

Issue for arbitration

- 24. The remaining unresolved issue, then, concerns the assignment of the Leftover Courses. Having regard to paragraph 22(v) above, it is whether the University may grant an Applicant an initial appointment with an assignment to teach a course, without applying Article 6.1

Resolution of disputes

- 25. The parties agree that Rod Germaine retains jurisdiction to decide, on an expedited basis, any issues respecting the interpretation, application or alleged violation of this Agreement.

Pursuant to the authority given me by the parties to conclude this Agreement after hearing the parties on matters of form, I have determined this is the Agreement reached by the parties on January 5, 2012.

Dated and signed in Vancouver this 29th day of February 2012.

A handwritten signature in blue ink, appearing to read "Rod Germaine", with a long, sweeping horizontal stroke extending to the right.

Rod Germaine, Arbitrator