

COLLECTIVE AGREEMENT

Between

BERLITZ CANADA INC.
(Employer)

And

**CANADIAN OFFICE AND PROFESSIONAL
EMPLOYEES UNION, LOCAL 378**
(Union)

Effective Date: June 1, 2004
Expiry Date: June 30, 2007



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ARTICLE 1 - PARTIES

1.01 Parties To The Agreement

This Agreement is made and entered into by and between:

BERLITZ CANADA INC.

(hereinafter termed "Berlitz")

Party Of The First Part

and

**Canadian Office And Professional Employees Union,
Local 378**

(hereinafter termed the "Union")

Party Of The Second Part

as evidenced by signature(s) of their duly authorized representative(s)
hereinafter affixed.

ARTICLE 2 - PREAMBLE

2.01 Purpose Clause

The intent of this agreement is to establish and maintain harmonious relations between Berlitz and its Employees represented by the Union, to establish and maintain mutually satisfactory working conditions for the Employees covered by this Agreement, and to provide a mechanism for the prompt and equitable method of resolving any differences or grievances which may arise with respect to matters covered by this agreement.

The Parties recognize and agree that the nature of Berlitz's business dictates particular considerations in relation to the terms and conditions for Employees of Berlitz represented by the Union. These considerations are dictated by specific needs of language instruction customers so that customers will be attracted to enrol in Berlitz's language instruction courses and the customers will view favourably the quality instruction provided by Berlitz, to the mutual benefit of Berlitz and the Employees represented by the Union.

ARTICLE 3 - INTERPRETATION

3.01 Interpretation

This Agreement shall be interpreted in its entirety and in accordance with the applicable laws of the Province of British Columbia and the Dominion of Canada.

3.02 Common Meaning

Terms and phrases used in this Agreement shall be given their common meaning, unless otherwise specifically defined herein.

3.03 Headings

The headings and sub-headings used in this Agreement are inserted for convenience and reference purposes only and shall not be used as an aid to interpretation.

3.04 Gender/Singular And Plural

In this Agreement, whenever the male pronoun is used, it shall be deemed to include the female pronoun and vice versa and whenever the singular is used, it shall be deemed to include the plural, and vice versa.

ARTICLE 4 - UNION RECOGNITION, BARGAINING UNIT DESCRIPTION AND APPLICATION OF AGREEMENT

4.01 Union Recognition

Berlitz recognizes the Union as the sole and exclusive collective bargaining agent for all persons to whom the Certification issued to the Union on April 11, 2003 applies, including any changes to said Certification made from time to time by the Labour Relations Board of British Columbia, or any of its successors, but excluding those persons expressly excluded by the Labour Relations Board of British Columbia, or any of its successors.

4.02 Where a new instructor classification is to be created, Berlitz shall advise the Union and the rate for such new classification shall be discussed between the parties. Where the parties cannot agree on the rate of pay for this new classification, Berlitz shall establish the rate on an interim basis, and shall advise the Union of the rate.

Should the Union disagree with the rate established by Berlitz, it may refer the matter to arbitration under Article 19 of the collective agreement. Should the Union fail to refer the matter to arbitration within 15 working days of Berlitz advising the Union of the established interim rate, that interim rate shall be

deemed to be agreed upon by the Union and incorporated into the wage scale in the collective agreement.

4.03 Application Of Agreement

This agreement shall continue to apply to Employees in circumstances where they are temporarily required by Berlitz to perform their work functions elsewhere in the province.

ARTICLE 5 - SECURITY OF BARGAINING UNIT WORK

5.01 Exclusivity of Bargaining Unit Work

Duties normally performed by Employees within the bargaining unit will not be assigned to or be performed by non-bargaining unit Employees except to overcome immediate, short term cases of absenteeism, emergencies, for training, for purposes of quality control tests, for skills maintenance for the Language Instruction Supervisor as is the current practice, and in circumstances when bargaining unit Employees capable of performing the work are not available within a reasonable time frame.

ARTICLE 6 - UNION MEMBERSHIP AND DUES

6.01 Union Membership

- (a) All Employees covered by this Agreement shall, as a condition of employment, become and remain members of the Union. New Employees, hired subsequent to the signing of this Agreement, shall become and remain members of the Union as a condition of employment on the first (1st) day of employment by Berlitz.
- (b) Berlitz shall advise the Union of all newly hired Employees within fifteen (15) calendar days of the date of their employment.

6.02 Union Dues Authorization

Each Employee in the bargaining unit shall, as a condition of continued employment, execute an authorization form approved and supplied by the Union providing for the deduction from the Employee's pay or salary the amount of the regular monthly dues and initiation fees owing or payable to the Union in accordance with the Union constitution and/or bylaws.

6.03 Union Dues And Other Deductions

Berlitz shall, as a condition of employment, deduct from the pay or salary of each Employee in the bargaining unit the amount of the regular monthly dues and

initiation fees owing or payable to the Union by a member of the Union, as established by the Union.

Before Berlitz is obliged to deduct any amount pursuant to this Article, the Union must advise Berlitz in writing of the amount to be so deducted. The amount advised shall continue to be the amount to be deducted until changed by official notice in writing from the Union to Berlitz. The Union shall provide Berlitz with a minimum of fifteen (15) calendar days notice in advance of the implementation date of any change in deductions pursuant to this Article.

6.04 Remittance Of Deductions

All deductions made by Berlitz pursuant to this Article shall be remitted to the Union not later than the fifteenth (15) day of the month following the date of deduction and shall be accompanied by information specifying the names, social insurance number, gross salary and number of hours worked of the Employees from whose pay such deductions have been made and the purpose of the deduction and the amount in each case.

Berlitz will deduct and forward the applicable initiation fee from the first pay period.

6.05 Record Of Union Deductions (T4 Slips)

Berlitz shall supply each Employee, without charge, with a record on their T4 slips, for income tax purposes indicating the amount of applicable deductions paid to the Union by the Employee in the previous calendar year. Such record shall be provided to each Employee prior to March 1 of the succeeding calendar year.

ARTICLE 7 - UNION REPRESENTATION

7.01 Union Representative

- (a) Berlitz recognizes the Union's right to select Job Stewards and any other Union officials or representatives whose duties involve, in whole or in part, representing Employees under this Agreement.
- (b) The Union shall notify Berlitz in writing of the names of the persons authorized to represent the Union and/or the Employees for the purposes of this Agreement and shall promptly notify Berlitz in writing of any changes in these names.

7.02 Time Off Work For Union Business

- (a) The Job Steward's first obligation is the fulfilment of his/her responsibilities as an Employee. During his/her working hours, Job Stewards shall not

engage in Union activities other than is necessary in order to receive, investigate and resolve grievances. A Job Steward shall not leave his/her assigned class to conduct Union business.

(b) A job steward shall not take any action or issue any instruction to Employees which will interfere with the operations of Berlitz, that is the classes or lessons, or with the management or direction of the workforce. A job steward will exercise his/her rights under this collective agreement in a manner consistent with the requirements of the collective agreement.

(c) A job steward shall not be discriminated against or disciplined for the proper performance of his/her duties.

7.03 The Union may request access to Berlitz's premises for the purposes of conducting necessary Union business relating to the administration of the collective agreement. Such request for access must be made 48 hours in advance, and shall not be unreasonably denied.

7.04 No Other Agreement

Berlitz agrees not to enter into any agreement with any Employee or group of Employees which conflicts with any of the terms or conditions of this Agreement or which provides for any terms or conditions of employment, which are not expressly provided for by this Agreement.

7.05 Union Information For New Employees

Berlitz agrees to acquaint new Employees with the fact that a Collective Agreement is in effect and with the conditions of employment set out in the provisions dealing with union membership and dues. The new Employee shall be advised of the names and locations of his/her Job Stewards. Berlitz agrees that a Job Steward shall be given, upon request, an opportunity for one (1) hour within the first thirty (30) days of employment to acquaint the new Employee with the benefits and duties of Union membership and the Employee's responsibilities and obligations to Berlitz and the Union.

7.06 Bulletin Board

Berlitz shall provide free bulletin board facilities at its premises for the exclusive use of the Union, in the staff room which is accessible to all instructors but not to students. Berlitz reserves the right to remove any posted communications which are in conflict with the harassment provisions of the collective agreement.

7.07 Union Communications and Voting

It is agreed that the Union shall have the right to place ballot boxes in the workplace for the purposes of conducting Union elections and collective agreement votes. Such ballot boxes shall only be placed in non-public areas designated by Berlitz. Voting shall not be done on company time.

ARTICLE 8 - MANAGEMENT RIGHTS

The Union recognizes that Berlitz has the right to operate and manage its operations in all respects except as expressly and specifically limited by this Agreement. The right includes but is not limited to the right: to hire, direct, promote, demote, transfer, layoff, discipline and discharge; to determine the extent to which, the methods by which, and the hours during which operations will from time to time be carried on; the right to determine qualifications required for each assignment and whether or not any instructor meets those qualifications; to assess the performance of each and every Employee; to make, publish and enforce rules for the promotion of safety, efficiency and discipline and for the protection of Employees and Berlitz's facilities, equipment, and operations.

Such management rights shall be exercised in a manner which shall not be inconsistent with the terms of this agreement.

ARTICLE 9 - PERSONAL RIGHTS

9.01 No Harassment

Berlitz and the Union agree that neither will discriminate either directly or indirectly, nor will they permit any of their Employees, members or representatives to discriminate either directly or indirectly against any Employee by reason of race, ancestry, place of origin, colour, age, sex, sexual orientation, religion, marital status, family status, mental or physical disability, conviction of a criminal or summary conviction offence unrelated to his/her employment, political belief, or membership or activity in any trade Union.

9.02 Prohibition against Harassment

Berlitz recognizes the right of all Employees to work in an environment which is free of harassment. Accordingly, the harassment of any Employee is prohibited.

9.03 Definition of Harassment

(a) Harassment is objectionable conduct or comment directed towards a specific person or persons which serves no legitimate work purpose, and which has the effect of creating an intimidating, humiliating, hostile or offensive work environment. This does not include a single incident of a

minor nature where the harm, by any objective standard, is minimal. Harassment does not include the legitimate exercise of an individual's supervisory power or authority.

- (b) Harassment includes, but is not limited to, any discrimination on the basis of race, ancestry, place of origin, colour, age, religion, sex, sexual orientation, marital status, family status, physical or mental disability, criminal or summary conviction offence unrelated to current employment, political belief, or membership or activity in any trade Union.
- (c) Sexual harassment, as defined in Article 9.04 below, is considered to be a form of harassment and will not be tolerated.

9.04 Definition of Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature that detrimentally affects the work environment or leads to adverse job-related consequences.

Conduct of a sexual nature includes, but is not limited to,

- (a) sexual or physical assault;
- (b) propositions in exchange for workplace favours;
- (c) derogatory or degrading remarks of a sexual nature or regarding gender or sexual orientation;
- (d) sexist jokes causing embarrassment or offence told or carried out after the joker has been advised that they are embarrassing or offensive, or that by their nature, would be understood by a reasonable person to be embarrassing or offensive;
- (e) unwelcome sexual flirtations, advances or propositions, sexually suggestive or obscene comments or gestures, leering;
- (f) other like behaviour.

Whether or not conduct is seen as "unwelcome" will depend on the circumstances of each case. However, the complainant need not expressly reject the conduct or object to the conduct in order to complain about it. It is sufficient if the harasser knows or ought to have known that the conduct was unwelcome.

This definition of sexual harassment is not meant to inhibit interactions or relationships based on mutual consent or normal social contact between Employees.

9.05 Berlitz Obligations

- (a)** Berlitz must at all times act appropriately to preserve and promote a work environment which is free from harassment. Accordingly, Berlitz may undertake discipline or other appropriate action against any person who engages in harassment in violation of this Article. Berlitz may also undertake discipline or other appropriate action against any person who under this Article makes a claim of harassment which is determined to be frivolous, vexatious or vindictive in nature.
- (b)** All Employees in the bargaining unit must refrain from harassment or be subject to discipline or other action by Berlitz up to and including discharge.

ARTICLE 10 - NO STRIKE OR LOCKOUT

10.01 No Strike Or Lockout

During the term of this Agreement the Union agrees that there shall be no strikes and Berlitz agrees that there shall be no lockouts.

10.02 Right To Refuse To Cross Picket Lines

No Employee shall be disciplined for refusing to cross a legal picket line arising from a legal strike or lockout.

10.03 The Union agrees that if the legal picket line does not arise from a lawful strike or lockout instituted by either of these parties, it will use its best efforts to obtain authorization for the Employees to cross that picket line.

ARTICLE 11 - PROBATION PERIOD

11.01 Probation Period

- a)** An Employee shall be considered a probationary Employee until he or she has taught 300 lessons.
- b)** The purpose of the probationary period is to provide Berlitz with an opportunity to review the Employee's performance and to determine whether he/she is suitable for continued employment.
- c)** During the probationary period, the new Employee may be terminated on the basis of suitability for continued employment with Berlitz.

- d) Employees who resign from their employment and are rehired into the same job within a one (1) year period from the date of resignation will not be required to complete another probation period.

11.02 Berlitz Obligations During Probation Period

- a) Berlitz shall inform a probationary Employee of the standards which he or she is expected to meet during the probation period and shall also provide all appropriate training and familiarization necessary to assist the new Employee to meet these standards.
- b) Berlitz shall inform a probationary Employee of any deficiencies in the Employee's performance and shall provide adequate time within the probationary period for correction of the deficiencies, prior to the discharge or termination of the probationary Employee.
- c) Either prior to or upon expiration of the probation period, Berlitz shall confirm the successful completion of probation by a new Employee or otherwise discharge or terminate the Employee.

ARTICLE 12 – SENIORITY

12.01 Definition Of Seniority

Seniority shall be calculated on the basis of instructional units worked for Berlitz Canada in Vancouver.

12.02 Service Outside The Bargaining Unit

An Employee who accepts a position with Berlitz outside of the bargaining unit shall maintain seniority for a period not to exceed ninety (90) days. Should the Employee decide during this ninety day period, that he/she does not want to continue in the position, the Employee may return to the bargaining unit. Upon expiry of the ninety day period, and continuation of the Employee in the position outside of the bargaining unit, the Employee shall lose all his/her seniority under this Agreement.

12.03 Loss Of Seniority

An Employee shall lose his or her seniority only in the event that:

- (a) the Employee is discharged or terminated for just cause and is subsequently not reinstated;
- (b) the Employee voluntarily resigns his or her employment;

- (c) the Employee is absent from work for five (5) working days without notifying Berlitz, unless he/she has a bona fide reason satisfactory to Berlitz for not doing so;
- (d) the Employee retires;
- (e) the Employee is laid off and his or her recall rights expire;
- (f) the Employee accepts any position outside the bargaining unit, subject to the provisions of Article 12.02.
- (g) the Employee fails to pay Union dues in accordance with the requirements of the Union constitution;
- (h) the Employee fails to return from an approved leave of absence within 5 working days of the expiry of such leave;
- (i) is laid off and fails to return to work within 10 calendar days from receipt of Berlitz's notice by registered mail to return to work, unless he/she is able to provide acceptable medical evidence that he/she was unable to do so because of illness or injury.

12.04 Seniority List

- (a) Berlitz shall compile and maintain an up to date seniority list setting out the name and number of instructional units worked by each Employee in the bargaining unit.
- (b) The seniority list described in Article 12.04(a) above shall be posted by Berlitz at three month intervals, and a copy shall be given to the Union. Should any Employee disagree with Berlitz's calculation of the number of instructional units worked, that Employee must notify Berlitz of the disagreement within thirty (30) days of the posting of the list. Should Berlitz not receive any notification of disagreement, the number of units worked set out on the list will be deemed to be agreed upon.
- (c) Employees will be required to provide Berlitz and the Union with their current addresses and phone numbers. Employees must advise both Berlitz and the Union of any changes to their address or phone number within thirty (30) days of such change.

ARTICLE 13 - PERFORMANCE ASSESSMENTS AND PERSONNEL RECORDS

13.01 Employee Access To Personnel File

Upon reasonable notice and by written request to Berlitz, an Employee shall have the right to read and review his or her personnel file. An Employee may request and shall receive a copy of any document, record or report contained in the Employee's personnel file.

13.02 Union Access To Employee Personnel File

Provided that the Union's representative has the consent in writing, of the Employee concerned, and supplies that consent to Berlitz, a Union representative shall have the right to:

- a) read and review that Employee's personnel file;
- b) on request, obtain copies of any document, record or report contained in the Employee's personnel file.

13.03 Performance Assessments

Written performance assessments shall be used by Berlitz to train and develop Employees and to bring to the Employee's attention, areas that require improvement. An Employee shall be given sufficient opportunity to read, review and discuss any such performance assessment.

13.04 Purging Personnel Files

No disciplinary notices which are more than eighteen (18) months old shall be relied upon for disciplinary purposes. No disciplinary notice about any Employee shall be placed in the Employee's personnel file unless the Employee concerned is first given a copy of the disciplinary notice.

ARTICLE 14 - LAYOFF AND RECALL

14.01 If a reduction of staff is necessary, Berlitz will lay off staff on the basis of seniority, client needs, including continuity of instructor and client/instructor fit and instructor availability. If there are no particular considerations that arise with respect to client needs and instructor availability, layoffs will be done in reverse order of seniority.

14.02 Employees shall be provided with a minimum of 48 hours notice of layoff.

14.03 An Employee who is laid off under this agreement shall be placed on the recall list and shall be entitled to be recalled for a period of two (2) years from the date of layoff.

ARTICLE 15 – ADJUSTMENT PLAN

15.01 If Berlitz introduces or intends to introduce a measure, policy, practice or change that affects the terms, conditions or security of employment of a significant number of Employees to whom the collective agreement applies,

- (a)** Berlitz must give notice to the Union at least sixty (60) days before the date on which the measure, policy, practice or change is to be effected, and;
- (b)** after notice has been given, Berlitz and the Union must meet, in good faith, and endeavour to develop an adjustment plan, which may include provisions respecting any of the following:
 - (i)** consideration of alternatives to the proposed measure, policy, practice or change, including amendment of provisions in the collective agreement;
 - (ii)** human resource planning and Employee counseling and retraining;
 - (iii)** notice of termination;
 - (iv)** severance pay;
 - (v)** entitlement to pension and other benefits including early retirement benefits;
 - (vi)** a bipartite process for overseeing the implementation of the adjustment plan.

15.02 If, after meeting in accordance with subsection (b), the parties have agreed to an adjustment plan, it is enforceable as if it were part of the collective agreement between Berlitz and the Union.

15.03 Article 15.01 and 15.02 do not apply to the termination of the employment of Employees exempted by section 65 of the *Employment Standards Act* from the application of section 64 of that Act as amended from time to time.

ARTICLE 16 - SEVERANCE PAY

16.01 Should Berlitz Vancouver close, Employees working at the time the closure is announced shall be entitled to severance pay as follows:

- a)** 2 weeks pay if the Employee has completed at least one (1) and up to two (2) consecutive years of employment;
- b)** 3 weeks pay if the Employee has completed three (3) consecutive years of employment; and

an additional week thereafter for each completed consecutive year of employment, to a maximum of eight weeks severance.

"weeks pay" means for each week of pay an Employee is entitled to the amount obtained by totaling the Employee's weekly wages, at the regular rate, during the last 8 weeks in which the Employee worked and dividing the total by 8.

16.02 It is understood and agreed that at any time the Employee accepts severance pay in accordance with the Agreement, the Employee's employment shall be terminated and such Employee shall have no further rights under this agreement.

16.03 A consecutive year is defined as 1050 instructional units taught, on a consecutive year basis.

ARTICLE 17 - DISCHARGE, SUSPENSION, DISCIPLINE AND TERMINATION

17.01 Just Cause

Except as set out in Article 11, Berlitz shall only discipline, discharge or terminate an Employee for just cause. The burden of proof of just cause shall rest with Berlitz.

17.02 a) Union Representation

Employees shall have the right to have a Job Steward or Union Representative present at any meeting with Berlitz that could result in discipline or discharge.

b) Notice Of Disciplinary Action

Berlitz shall provide the Employee and the Union with notice, in writing, of any disciplinary action taken and the reasons for such action.

ARTICLE 18 - GRIEVANCE PROCEDURE

18.01 Definition Of Grievance

Prior to initiating a written grievance, the Employee, with or without a job steward, should attempt to resolve a problem directly with management. Management will provide its response within ten (10) working days of being advised of the problem.

"Grievance" means any difference, disagreement or dispute between the Parties, concerning:

- (a)** The interpretation, application, operation or any alleged violation of any provision of this Agreement, including any question as to whether or not any matter is arbitrable; or
- (b)** the discipline, discharge or termination of any Employee.

18.02 Right To Grieve

- (a)** Any Employee who considers himself/herself aggrieved shall have the right to initiate and to process a grievance under this Agreement, subject to the consent of the Union, in which case the Union shall at all times control carriage of the grievance on behalf of the Employee.
- (b)** The Union shall have the right to initiate and to process a grievance, including policy grievances, under this Agreement on behalf of itself, or on behalf of any Employee, or on behalf of any group of Employees.
- (c)** Berlitz shall have the right to initiate and to process a grievance under this Agreement with respect to the Union's actions.
- (d)** It is mutually agreed that any Employee or Party exercising his, her or its rights under this Agreement does so without prejudice to his, her or its relations with any Employee or Party or representative of either Party.

18.03 Grievance Process

- (a)** All grievances must be submitted in writing at the appropriate step by:
 - (i)** setting out the nature of the grievance and the circumstances from which it arose;
 - (ii)** stating the provision(s) of the Agreement at issue or alleged to have been violated;

- (iii) stating the redress or other action required to resolve the matter;
- (iv) transmitting the grievance to the other Party.
- (b) Throughout the grievance procedure, in attempting to effect resolution, the Parties may fashion such settlements as they deem appropriate and mutually acceptable.
- (c) All grievances shall be resolved without stoppage of work.

Grievance Will Be Processed as Follows:

Step 1

The Job Steward or Union Representative, with or without the aggrieved Employee, will attempt to settle the written grievance with the Supervisor (designated by Berlitz) involved in the dispute.

If the grievance is not settled at Step 1, the Berlitz representative present at the meeting will relate to the Union in writing, within ten (10) working days, Berlitz's acceptance or rejection of the grievance.

If settlement is not reached, the grievance may proceed to Step 2.

Step 2

Failing a satisfactory settlement at Step 1, the Union may submit within fifteen (15) working days the written grievance to the Director or his/her authorized representative. The Director, or his/her authorized representative, accompanied if so desired by other representatives of Berlitz, will meet with the Union Representative within fifteen (15) working days of receipt of the grievance with the view to achieving a settlement.

If the grievance is not settled at Step 2, the Berlitz representative present at the meeting will relate within fifteen (15) working days, acceptance or rejection in writing of the grievance to the Union.

If settlement is not reached the Union may, within thirty (30) calendar days, pursue the grievance to Step 3.

Step 3

Arbitration

If the request for the extension is made in writing, such request will not be unreasonably denied.

18.04

(a) Management Grievances

Management grievances will be put in writing and initiated at Step 2. Berlitz may submit the grievance in writing to the Union within ten (10) working days of becoming aware of events giving rise to the grievance. The Director or his/her authorized representative, accompanied if so desired by other representatives of Berlitz, may meet with the Union Representative(s) within ten (10) working days of the receipt of the grievance with the view to achieving a settlement. The Union shall reply to the grievance within ten (10) working days after it was received.

(b) Reference to Arbitration

If a satisfactory settlement is not reached at Step 2, Berlitz may advance the grievance to arbitration, provided written notice of such is given to the Union within thirty (30) calendar days following the receipt of the Union's reply at Step 2.

18.05 Discharge Cases

A grievance regarding the suspension or discharge of an Employee may be initiated at Step 2.

18.06 Group or General Grievances

Grievances of a general or group nature will be put in writing and initiated at Step 2.

ARTICLE 19 - ARBITRATION

19.01 Reference To Arbitration

After exhausting the grievance procedure and subject to the applicable time limits as set forth in this Agreement, the grieving Party may, by written notice to the other Party, refer any unresolved matter to arbitration, in which event the matter shall be resolved in accordance with the provisions of this Article.

19.02 Selection Of Arbitrator

All grievances submitted to arbitration under this Article shall be adjudicated by a single Arbitrator who shall be selected on a case-by-case basis by mutual agreement between the Parties. If Berlitz and the Union cannot agree on an Arbitrator within twenty (20) calendar days following the date of issue of a notice

of referral to arbitration, then the Parties shall choose one (1) of the arbitrators from the list defined below, by random draw, subject to the availability of the selected arbitrator to hear the grievance within ninety (90) calendar days.

Arbitrator List

For the duration of this Agreement the list of Arbitrators shall be:

Rory MacDonald
David McPhillips
Colin Taylor
Don Munroe
Allan Hope
Judi Korbin

This list shall be reviewed and amended if one of the Arbitrators becomes unavailable or upon expiry of the collective agreement, or by mutual agreement at any time during the collective agreement.

19.03 Jurisdiction Of Arbitrator

- (a) Arbitrators shall be vested with all powers that are necessary for the complete, final and binding resolution of any matter in dispute. Except as expressly provided otherwise by this Agreement, the Arbitrator shall not, however, have the power to add to, subtract from, alter, amend, or otherwise change or modify any part of this Agreement or render any binding decision which is inconsistent with any of its terms.
- (b) Arbitrators shall have the power to amend any grievance in order to relieve either Party of any failure to conform to any technicality.

19.04 Decision Of Arbitrator

- (a) The Arbitrator shall proceed as soon as practical to hear the grievance and shall endeavour to render a decision within thirty (30) calendar days following the date of final conclusion of the hearing. The decision of the Arbitrator shall be in writing and shall be final and binding on Berlitz, the Union and each Employee in the bargaining unit affected by the decision.
- (b) Should either Party disagree as to the meaning, intent or implementation of an Arbitrator's decision, such Party may apply to the Arbitrator to reconvene the hearing to clarify the decision or decide any issue in dispute and the Arbitrator shall have jurisdiction to resolve these matters.

19.05 Arbitration Expenses

The fees and expenses of the Arbitrator shall be borne equally by the Parties.

19.06 Time Off Work For Arbitration Purposes

- (a) Employees required by Berlitz to attend or participate in any investigation, discussion, meeting or hearing with respect to the processing of any arbitration under this Article, shall be granted time off work with pay by Berlitz for this purpose and this time shall be deemed to be time worked. Accordingly, they shall be kept “whole” with respect to all pay, seniority, benefits and other rights and entitlements which would accrue to them pursuant to this Agreement had they remained working.
- (b) Employees required by the Union to attend or participate in any investigation, discussion, meeting or hearing with respect to the processing of any arbitration under this Article, shall be granted time off work without pay by Berlitz for this purpose. This time shall be deemed to be time worked. Accordingly, they shall be kept “whole” with respect to all seniority, benefits and other rights and entitlements which would accrue to them pursuant to this Agreement had they remained working.

ARTICLE 20 – WAGE ADMINISTRATION

20.01 All Employees will be paid bi-weekly for the instructional units worked.

20.02 Instructors who have been scheduled to give lesson(s) shall be paid for those lessons whether or not the student(s) attend those lesson(s) unless they are notified by 4:30 pm the working weekday before the scheduled lesson(s) that such lesson(s) has been cancelled.

20.03 Travel Allowance

Instructors giving lessons at a teaching destination within the City of Vancouver other than the language centre will not be compensated for travel expenses or travel time if they are not required to report to another teaching site or to the language centre on that day and if the location is accessible by public transportation.

Instructors who give lessons at a teaching destination within the City of Vancouver other than the language centre and who are required to use their own vehicles to access the destination will be provided an allowance of thirty-five (35) cents per kilometre to access the destination and will be reimbursed for their parking if applicable. They will not be compensated for the travel time if they are

not required to report to another teaching site or to the language centre on that day.

Instructors giving lessons at several teaching destinations within the City of Vancouver, which may include the language centre, will be compensated for their travel expenses and will be compensated at their base rate for the actual time required to travel between destinations, in 15-minute increments. The mode of transportation is at Berlitz's discretion.

Instructors giving lessons outside the city of Vancouver will be reimbursed for travel expenses and parking and will be compensated at their base rate for the actual travel time required to access the teaching site from the City of Vancouver city limits, in 15 minute increments.

In situations where Berlitz requires an Employee to travel more than 100 kilometre outside the Vancouver city limits, Berlitz will determine the mode of transportation and provide the Employee with a travel advance.

If an instructor is required to perform work at a location more than 100 kilometres outside the City of Vancouver and such work requires an overnight stay, Employees will be reimbursed for meals upon the production of a receipt to the following maximums:

- 1) breakfast: \$15.00
- 2) lunch: \$15.00
- 3) dinner: \$25.00

ARTICLE 21: WORKING HOURS

21.01 Berlitz will schedule Employee(s) based on client needs, including continuity of instructor and client/instructor fit and instructor availability. If there are no particular considerations that arise with respect to client needs and instructor availability, scheduling will be done on the basis of seniority.

21.02 No instructor will be assigned more than 8 lessons per day in a 6 day period in a calendar week (Sunday to Saturday), with a maximum of 45 lessons scheduled in total.

21.03 During the calendar year all regular instructors shall advise Berlitz of their availability. Such availability cannot be changed during a calendar quarter. Instructors must provide Berlitz with their restrictions on availability fifteen (15) calendar days in advance of the commencement of the next quarter.

21.04 Probationary Employees cannot restrict or change their availability during their probationary period.

21.05 Each Employee shall receive a five (5) minute paid rest period for each instruction unit taught in each work day.

21.06 Each Employee shall receive a half (½) hour unpaid lunch break, to be taken at or near the mid point of the work day. Upon mutual agreement the unpaid lunch period may be changed to one hour.

ARTICLE 22 - OVERTIME HOURS/PREMIUM PAY

22.01 Employees shall be paid overtime at the rate of time and one half (1 ½) for all hours worked in excess of forty (40) in a week.

22.02 Employees shall be paid double time for all hours worked in excess of twelve (12) hours in a day.

22.03 Any hours worked in excess of twelve (12) hours in a day and any overtime paid pursuant to Article 22.02 shall not be included for the purposes of calculating overtime pursuant to Article 22.01

ARTICLE 23 – PAID HOLIDAYS

23.01 Paid Holidays

(a) For the purposes of this Agreement, the following are acknowledged as Paid Holidays:

New Year's Day	Labour Day
Good Friday	Thanksgiving Day
Victoria Day	Remembrance Day
Canada Day	Christmas Day
B.C. Day	Boxing Day

(b) In addition to the above, any other public holiday gazetted, declared or proclaimed by the Federal Government or the Government of the Province of British Columbia, shall be deemed to be a Paid Holiday for the purposes of this Agreement.

23.02 (a) Eligibility

Instructors who have been employed by Berlitz for at least thirty (30) days before the paid holiday and have worked for fifteen (15) of the thirty (30) calendar days preceding the paid holiday shall be entitled to holiday pay in accordance with Article 23.02 (b).

(b) Calculation of Holiday Pay

An instructor who is given a day off on a paid holiday, or who is by mutual agreement between the Instructor and Berlitz given a different day off as a substitute for the paid holiday, shall be paid holiday pay calculated on the basis of her or his average daily earnings divided by the number of working days in the thirty (30) calendar day period preceding the paid holiday or substitute.

23.03 Paid Holiday Falling On A Day Of Rest

When a paid holiday falls on an Employee's day of rest, the Employee shall be entitled to a day off work with pay in lieu of the holiday observed. The scheduling of such paid time off work shall be subject to mutual agreement between the Employee and Berlitz.

23.04 Work on a Scheduled Paid Holiday

(a) Minimum

A minimum payment of five (5) lessons at applicable overtime rates in Article 22 shall apply with respect to reporting for work on any paid holiday, exclusive of any applicable payment for travel time.

(b) Pay and Time Off Work Entitlements

When an Employee works on a scheduled paid holiday the Employee shall be paid at the applicable overtime rates specified in Article 22 plus the Employee shall be given a day off work with pay in lieu of the holiday. Scheduling of this paid time off work shall be subject to mutual agreement between the Employee and Berlitz.

23.05 Scheduling Work on Paid Holidays

Where Berlitz has a requirement for work to be performed on any paid holiday the performance of such work by any Employee shall be subject to the following:

(a) Berlitz shall ask Employees who normally perform the available work and who are qualified in accordance with Article 21.01, in seniority order, from highest to lowest, if they want to work on a given paid holiday and those Employees who accept shall thereby be scheduled to work on that day.

(b) Berlitz shall give at least seven (7) calendar days prior notice to each Employee who is scheduled in accordance with this article to work on any paid holiday.

ARTICLE 24 – VACATIONS

- 24.01** Employees shall be entitled to receive vacation pay at the rate of 4% of gross earnings. Such vacation pay shall be payable on each pay cheque.
- 24.02** After completion of five consecutive years of employment, Employees shall be entitled to receive vacation pay at the rate of 6% of gross earnings. Such vacation pay shall be payable on each pay cheque.
- 24.03** Employees who wish to take time off for vacation shall make such request to the Director at least 1 month in advance. Such vacation requests will be granted subject to operational requirements, and will not be unreasonably denied.
- 24.04** Berlitz shall respond to vacation requests within 5 working days.

Once a vacation request has been granted, an Employee cannot cancel such vacation within fifteen (15) calendar days of the anticipated commencement and exercise his or her seniority rights to obtain work during that time period.

- 24.05** Instructors who teach over 1300 lessons in a calendar year shall be required to take a minimum of one (1) calendar week time off each calendar year, in a minimum block of 7 calendar days each.

ARTICLE 25 - MEDICAL CERTIFICATES AND EXAMINATIONS

- 25.01** An Employee may be required by Berlitz to produce a certificate from a medical practitioner if the Employee is absent from work for medical reasons.
- 25.02** Should Berlitz require an Employee to see a health care professional that Berlitz chooses, all costs related to that examination and any report provided as a result of that examination, shall be borne by Berlitz.
- 25.03** Berlitz and any Union Representative who have access to medical information pertaining to any Employee shall protect the confidentiality of such material in accordance with the law. This shall not prevent the proper introduction of such material into evidence in legal proceedings in which the material is relevant to those proceedings.

ARTICLE 26- SICK LEAVE

- 26.01** Instructors who teach 140 lessons per month during 10 non-consecutive months in a calendar year for two consecutive years, and who continue to teach a minimum of 140 lessons per month shall be entitled to ten (10) paid sick days. Sick days shall not be paid out nor will they be carried over from year to year.

26.02 Where an instructor commences teaching and falls sick during that day, he or she shall be paid for the units he/she would have taught that day and the eligibility requirements set out in Article 26.01 do not apply.

26.03 Berlitz may require an Employee to produce a doctor's certificate. Requests for a doctor's certificate shall not be unreasonable.

ARTICLE 27 - FAMILY LEAVE

27.01 Maternity Leave

(a) Pregnancy Leave

A pregnant Employee who requests leave under this section is entitled to up to 17 consecutive weeks of unpaid leave,

(i) beginning

(1) no earlier than 11 weeks before the expected birth date, and;

(2) no later than the actual birth date, and;

(ii) ending

(1) no earlier than 6 weeks after the actual birth date, unless the Employee requests a shorter period, and;

(2) no later than 17 weeks after the actual birth date.

(b) An Employee who requests leave under this section after the birth of a child or the termination of a pregnancy is entitled to up to 6 consecutive weeks of unpaid leave beginning on the date of the birth or of the termination of the pregnancy.

(c) An Employee is entitled to up to 6 additional consecutive weeks of unpaid leave if, for reasons related to the birth or termination of the pregnancy, she is unable to return to work when her leave ends under subsection (a) or (b).

(d) A request for leave must

(i) be given in writing to Berlitz,

(ii) if the request is made during the pregnancy, such request shall be given to Berlitz at least 4 weeks before the day the Employee proposes to begin leave, and;

- (iii) if required by Berlitz, be accompanied by a medical practitioner's certificate or other evidence of the Employee's entitlement to leave.
- (d) An Employee's combined entitlement to leave under Article 27.01(a) and Article 27.02 and is limited to 52 weeks plus any additional leave the Employee is entitled to under Article 27.01(c) or Article 27.02(b).

27.03 Family Responsibility Leave

- (a) An Employee is entitled to up to five (5) days of unpaid leave during each employment year to meet responsibilities related to:
 - (i) the care, health or education of a child in the Employee's care or;
 - (ii) the care or health of any other member of the Employee's immediate family.
- (b) for the purpose of Article 27.03(a) "immediate family" means:
 - (i) the spouse, child, parent, guardian, sibling, grandchild or grandparent of an Employee, and;
 - (ii) any person who lives with the Employee as a member of the Employee's family.

27.04 Bereavement

Should an Employee require time off due to the death of an immediate family member, he or she will be entitled to a paid leave of absence for up to five (5) consecutive days.

Pay will be calculated based on the earnings of the Employee in the preceding four (4) pay periods divided by forty (40).

Immediate family for purposes of Article 27.04 is defined as parents, parent in law, siblings, spouse, children, guardian, grandchildren, or grandparents of the Employee.

Should an Employee wish to take time off to attend a funeral of a family member other than immediate family, such time will be granted without pay.

ARTICLE 28- LEAVE OF ABSENCES

28.01 An Employee shall be granted an unpaid leave of absence for the purpose of attending medical or dental appointments during working hours. Wherever possible, the Employee shall provide Berlitz with seventy-two (72) hours advance notice of the necessity for such leave.

28.02 Voting Leave

Employees shall be scheduled so that they have the statutorily required number of consecutive clear hours free from work during the hours the polls are open in which to cast their ballots in any federal, provincial or municipal election or referendum.

28.03 Religious Holidays

Leave of absence without pay for religious holidays may be granted, which permission shall be consistently applied and shall not be unreasonably denied by Berlitz.

28.04 Leave Of Absence For Union Business

Employees who are acting as full-time officers or representatives of the Union or who are hired, elected or appointed to positions representing the COPE, Local 378, or the COPE shall be granted an unpaid leave of absence to perform their duties. The Union shall give the Berlitz notice in writing at their earliest opportunity but not less than fourteen (14) working days prior to the commencement of the leave. The Employee will continue to accrue seniority with Berlitz.

28.05 Leave of Absence for Union Function

Upon written application to the immediate supervisor at least fourteen (14) working days in advance, and provided the requirements of the operation permit, Berlitz shall grant leave of absence without pay to not more than one (1) Employee to attend a Union convention or other official Union function on behalf of the Union. Such leave shall not exceed one (1) week, except where mutually agreed to extend such period.

28.06 No Change To Approved Leave Of Absence

(a) Once Berlitz has approved a leave of absence, Berlitz shall not change or otherwise interfere with such leave either before or after its commencement, without the consent of the Employee concerned.

- (b) If an Employee agrees to any change requested by Berlitz to an approved leave of absence either before or after commencement of the leave of absence, Berlitz shall reimburse the Employee for any direct costs incurred by the Employee as a result of any such change and the balance of the leave of absence, if any, shall, at the option of the Employee, be rescheduled to a time mutually acceptable to Berlitz and the Employee.

ARTICLE 29 - OCCUPATIONAL HEALTH AND SAFETY

29.01 Statutory Compliance

The parties shall establish a Joint Health and Safety Committee as required under the Workers Compensation Act. The Health and Safety Committee shall have the responsibilities as set out in Division 4 of the Workers Compensation Act, as amended from time to time.

29.02 Berlitz Policy

- (a) The Occupational Health and Safety Committee shall consist of two (2) representatives appointed by Management and two (2) representatives appointed by the Union.
- (b) Employee representatives shall suffer no reduction of wages, benefits or other rights or entitlements under this Agreement for time spent in attending Occupational Health and Safety Committee meetings or other functions related to committee activities as designated and approved by the committee.

29.03 Minutes

All minutes of the meetings of the JOHS Committee shall be recorded in a mutually agreed upon form and manner and a copy shall be provided to Berlitz and the Union.

ARTICLE 30- EMPLOYEE ASSISTANCE PLAN

- (a) Berlitz shall provide an Employee Assistance Program. All Employees shall be eligible for participation in that Employee Assistance Program.
- (b) All information received by the program provider regarding an Employee's participation in the Employee Assistance Program shall remain confidential, and Berlitz shall not be entitled to that information, except with the specific consent of the employee participating in the program.

ARTICLE 31 – BENEFIT PLANS

31.01 Berlitz will pay 50% of the cost of premiums for benefits coverage for eligible Employees. Employees who teach a minimum of 160 lessons per month during 10 non-consecutive months in a calendar year for 2 consecutive years shall be eligible for benefits. In order to remain eligible for such benefits, the Employee must continue to teach a minimum of 160 lessons per month during 10 non-consecutive months in each calendar year.

(a) The benefit plans provided to eligible Employees are:

- (i) Dental Plan
- (ii) Medical Services Plan
- (iii) Extended Health Plan
- (iv) Life Insurance
- (v) LTD which provides for benefits to be payable to eligible and qualifying Employees after the expiration of Employment Insurance benefits.

31.02 Whether an employee qualifies to receive any particular benefit under a benefit plan shall be determined by the carrier.

ARTICLE 32- PENSION PLAN

Employees who have completed one thousand and fifty (1,050) lessons per year during two (2) consecutive calendar years are entitled to participate in Berlitz Retirement Savings Program. Each year Berlitz contributes an amount equal to three percent (3%) of the participating Employee's gross earnings. Eligibility and application conditions will be communicated to an Employee upon request.

ARTICLE 33 - BERLITZ - UNION RELATIONS

33.01 Establishment Of Joint Liaison Committee

On request of either party, the parties must meet once every two months during working hours, until this agreement is terminated, for the purpose of discussing issues relating to the workplace that affect the parties or any Berlitz Employee(s) bound by this agreement.

Each party shall, at its sole discretion, select its own representative and shall notify the other of the name of such representative.

33.02 Minutes of Meetings

Minutes shall be kept of all meetings held pursuant to Article 33.01 and a copy shall be provided to Berlitz and the Union.

33.03 The purpose of the 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.

ARTICLE 34- GOVERNMENT ACTION AFFECTING AGREEMENT

- (a)** The parties recognize and agree that they cannot be obligated or bound by any term, condition or provision, which would be contrary to any existing federal or provincial legislation or regulation passed pursuant to such legislation. In the event that any term, condition, or provision, or part thereof which is incorporated into this agreement becomes in fact or in law contrary to such federal or provincial legislation or regulation, then such term, condition or provision, or part thereof, is void and of no effect.
- (b)** In the event that the federal or provincial legislation makes invalid any provision of this agreement, the remaining provisions shall continue in effect for the term of the agreement. Berlitz and the Union shall confer to settle upon mutually agreeable provision(s) to substitute for the provision(s) so altered or invalidated. If the Parties do not agree on a mutually satisfactory replacement they shall submit the matter to arbitration.

ARTICLE 35 – COMMUNICATIONS

- (a)** All communications to Employees or the Union from Berlitz, or any of its representatives, relative to the interpretation, application, or operation of any provision of this Agreement shall be in writing with a copy sent promptly to the President of the Union, or a delegate;
- (b)** The Union shall be informed in writing by Berlitz of any change contemplated by Berlitz which may in any way affect or involve any provision of this Agreement;
- (c)** Except as expressly provided otherwise by this Agreement, any notice required to be given by either Party to the other pursuant to this Agreement shall be by facsimile to the appropriate office and representative(s) of Berlitz or the Union, as the case may be. Such notification may, however, be hand-delivered;
- (d)** Berlitz agrees to notify the Union in writing of the name of each Employee who resigns; retires; or is hired; promoted; transferred; or laid off, recalled following layoff; suspended or terminated; or is absent on LTD or WCB.

ARTICLE 36 – DURATION

36.01 Duration

This Agreement shall be binding and remain in full force for the period from and including June 1, 2004 to and including June 30, 2007.

36.02 Notice to Bargain

Either party may at any time within four (4) months immediately preceding the expiry date of this agreement, by written notice, require the other party to commence collective bargaining.

36.03 During the period when negotiations are being conducted between the parties for the renewal of this collective agreement, this Agreement shall continue in full force and effect until:

- (i) the Union commences a legal strike; or
- (ii) Berlitz commences a legal lockout; or
- (iii) the parties enter into a new collective agreement.

36.04 The parties agree to exclude the operation of sections 50(2) and 50(3) of the *Labour Relations Code*, as amended from time to time.

Signed at _____, B.C. this _____ day of _____, 2004.

Darryl M. Simsovic

Steve Hansen

Janine Charbonneau

Silvana Fabbian

Brad Bastien, Union Representative

FOR BERLITZ

FOR THE UNION

APPENDIX A Wages

"A" Languages Private				
Lessons Taught	Old rate	June 1, 2004	June 1, 2005	June 1, 2006
		3%	3%	3%
0 – 499	10.00	10.30	10.61	10.93
500 – 1,999	10.60	10.92	11.25	11.58
2,000 – 4,999	10.75	11.07	11.40	11.75
5,000 – 10,000	11.00	11.33	11.67	12.02
10,001 and over	11.25	11.59	11.94	12.29
"A" Languages Group				
Lessons Taught	Old Rate	June 1, 2004	June 1, 2005	June 1, 2006
		3%	3%	3%
0 – 499	11.00	11.33	11.67	12.02
500 – 1,999	11.60	11.95	12.31	12.68
2,000 – 4,999	11.75	12.10	12.47	12.84
5,000 – 10,000	12.00	12.36	12.73	13.11
10,001 and over	12.25	12.62	13.00	13.39
"A" Languages				
English, French, Spanish, German, Portuguese, Italian				

"B" Language				
Lessons Taught	Old Rate	June 1, 2004	June 1, 2005	June 1, 2006
		3%	3%	3%
0 – 499	10.50	10.82	11.14	11.47
500 – 1,999	11.10	11.43	11.78	12.13
2,000 – 4,999	11.25	11.59	11.94	12.29
5,000 – 10,000	11.50	11.85	12.20	12.57
10,001 and over	11.75	12.10	12.47	12.84