MIAMI UNIVERSITY and FAM/AAUP-AFT – TENTATIVE AGREEEMENT

November 12, 2024

GRIEVANCE AND ARBITRATION

I. The primary purpose of this procedure is to secure, at the lowest procedural level possible, a solution to the grievance of bargaining unit faculty members.

II. The parties agree that any individual bargaining unit faculty member, at any time, may present grievances to the University and have the grievances resolved, without intervention of the Union, if the resolution is not inconsistent with the terms of this collective bargaining agreement now in effect.

Alternatively, bargaining unit faculty members may request to have a union representative present at any discussion with the University related to the resolution of a grievance.

III. Definition and Scope

1. A "grievance" is an allegation by the Union, a bargaining unit faculty member, or a group of bargaining unit faculty members that there has been a violation involving the interpretation or administration of an Article(s) and Section(s) of the Agreement. The Union and all bargaining unit faculty members agree this Article is the exclusive procedure applicable to alleged violations of this Agreement, including disciplinary action taken with respect to bargaining unit faculty, and waive the right to any alternative procedure unless expressly provided for herein.

2. Unlawful discrimination or harassment in violation of Art. __ [Nondiscrimination and Anti-Harassment] shall be reported through the University's Office of Equal Employment Opportunity ("OEEO"), and the claim shall be investigated in accordance with applicable policies and procedures, including but not limited to those relating to confidentiality. The grievance and arbitration process set forth in this Article is the exclusive procedure for challenging any discipline of a bargaining unit faculty member resulting from the University's investigation of any such claim, and such grievance shall be filed at Step Three. Nothing herein is intended to prevent a bargaining unit faculty member from filing a claim of unlawful discrimination,

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harassment, or retaliation with any administrative agency or court of competent jurisdiction.

IV. Grievance Procedure

A Union representative may be present at any meeting at any step of the grievance procedure set forth in this Section. Nothing contained in this Agreement shall be construed to prevent the informal resolution of any grievance, at any step of this procedure, which shall be documented in writing. Unless the parties agree otherwise, any such resolution or settlement shall be made without precedential effect.

The University will hold all personal information about the Grievant related to the disciplinary matter in confidence, and will only disclose such information to individuals involved in the disciplinary or grievance process (including individuals with administrative responsibilities for processing discipline and grievances), unless otherwise required by law.

Where more than one grievance involves similar issues, the parties may agree to consolidate the grievances prior to arbitration.

Steps of the grievance procedure may be waived or modified in writing and by mutual agreement of both parties. The Union and/or grievant may withdraw a grievance at any step of the procedure. Grievance so withdrawn shall not be reinstated.

STEP ONE

Within thirty (30) calendar days of the occurrence giving rise to the grievance, the Union or bargaining unit faculty member shall present a grievance in an informal writing to their Chair or other unit head or their designee. The Chair or their designee will investigate the grievance as they deem appropriate, discuss the matter with the grievant and Union where appropriate, and respond in writing to the Union and/or grievant within twenty (20) calendar days.

STEP TWO

If the grievance has not been resolved at Step One, the Union or grievant shall reduce the grievance to a formal writing, stating the facts and listing the Articles and Sections of the Agreement upon which the grievance is based, and submit the written grievance to the

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Dean or their designee within twenty (20) calendar days of receipt of the University's Step One response. The Dean or their designee will have twenty (20) calendar days following the receipt of the written grievance to investigate the matter as they deem appropriate, meet with the grievant and Union to discuss the matter and submit a written response to the grievant and Union. The Union may appeal the grievance to the next step within twenty (20) calendar days of the University's denial.

STEP THREE

If the grievance has not been resolved at Step Two, the Provost, or their designee, will meet with a designated representative of the Union to attempt to resolve the grievance within twenty (20) calendar days of the appeal to this step. The Provost, or their designee, will provide the Union with a written response to the grievance within ten (10) calendar days of the parties' meeting.

For purposes of computing time under this Article, dates on which the University is closed or in recess for faculty (as listed in the Academic Calendar) shall be excluded.

Any extension to the time limits set forth herein must be by written agreement of the parties. Should the University fail to respond at any step within the timeframes contained in this provision, the grievance will be deemed denied and the Union may proceed to the next step in the procedure. No timeframe shall be binding upon the Union until a required response is given.

V. Negative Recommendations for Tenure and/or Promotion

A. Tenure and Tenure-Track Faculty

This Section V, Part A shall apply to tenured and tenure-track faculty.

Bargaining unit faculty members who have received a negative recommendation for tenure or promotion from the University Promotion and Tenure Committee ("UPT Committee") and/or from the Provost or their designee, have the right to appeal such negative recommendation pursuant to the procedures set forth in this Article, Section V, Part A. The parties acknowledge that the procedures described herein contain the sole appeal and/or grievance process available to bargaining unit faculty members seeking to appeal their negative recommendation for promotion or tenure.

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Bargaining unit faculty members, who receive a negative recommendation for promotion or tenure from the UPT Committee, may submit a written request for reconsideration by the UPT Committee. Bargaining unit faculty members shall submit the request for reconsideration to the UPT Committee within ten (10) working days of receipt of the Written Statement of Reasons from UPT.

If a bargaining unit faculty member receives a negative recommendation, upon reconsideration, the bargaining unit faculty member will receive a written Statement of Reasons from the UPT Committee no later than ten (10) working days from the date the of the request for reconsideration. The Provost or their designee must accept any negative recommendation, upon reconsideration, by the UPT Committee.

A bargaining unit faculty member who receives a positive recommendation upon reconsideration by the UPT Committee will be notified of such positive recommendation as soon as possible.

Any bargaining unit faculty member whose negative recommendation from the UPT Committee has been ratified by the Provost or their designee, or who otherwise receives a negative recommendation from the Provost or their designee, has the right to appeal to the President of the University or their designee. The basis of the appeal must be an alleged procedural error or inequitable treatment. The appeal must be submitted, in writing, within fifteen (15) working days from the date of written notice of the denial of the bargaining unit faculty member's application for consideration or reconsideration for tenure or promotion.

If the President of the University makes a decision to deny a bargaining unit faculty member's appeal, the Union may submit the matter to arbitration consistent with the procedures set forth in Section VIII of this Article.

Appeals may also be based on allegations of discrimination, covered by University policy [Prohibiting Harassment and Discrimination]. Appeals alleging discrimination should be presented, in writing, to the Office of Equity and Equal Opportunity. Bargaining unit faculty members are urged to file such appeals within fifteen (15) working days from the date of written notice of the denial of the bargaining unit faculty member's application for consideration or reconsideration for tenure or promotion.

A Union representative may be present at any meeting at any step of the appeal process set forth in this Section.

B. TCPL Faculty

This Section V, Part B shall apply to TCPL bargaining unit faculty.

Bargaining unit faculty members who have received a negative recommendation for promotion from the Provost have the right to appeal such negative recommendation pursuant to the procedures set forth in this Article, Section V, Part B. The parties acknowledge that the procedures described herein contain the sole appeal and/or grievance process available to bargaining unit faculty members seeking to appeal their negative recommendation for promotion.

Bargaining unit faculty members, who receive a negative recommendation for promotion, may submit a written request for reconsideration by Provost. Bargaining unit faculty members shall submit the request for reconsideration to the Provost within ten (10) working days of receipt of the Written Statement of Reasons from the Provost.

If a bargaining unit faculty member receives a negative recommendation from the Provost, upon reconsideration, the bargaining unit faculty member may submit the matter to arbitration consistent with the procedures set forth in Section VIII of this Article.

A bargaining unit faculty member who receives a positive recommendation upon reconsideration by the Provost will be notified of such positive recommendation as soon as possible.

Appeals may also be based on allegations of discrimination, covered by University policy [Prohibiting Harassment and Discrimination]. Appeals alleging discrimination should be presented, in writing, to the Office of Equity and Equal Opportunity. Bargaining unit faculty members are urged to file such appeals within fifteen (15) working days from the date of written notice of the denial of the bargaining unit faculty member's application for consideration or reconsideration for promotion.

A Union representative may be present at any meeting at any step of the appeal process set forth in this Section.

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VI. Termination of Tenured Faculty

For purposes of this Article, Section VI, tenure revocation shall result in termination of employment. Bargaining unit faculty members with tenure who have been recommended for tenure revocation and termination by the Provost following the pre-disciplinary meeting provided in Article [Discipline and Discharge] have the right to appeal such recommendation for termination pursuant to the procedures set forth in this Article, Section VI. The parties acknowledge that the procedures described herein contain the sole appeal and/or grievance process available to tenured bargaining unit faculty members seeking to appeal their termination.

All recommendations made by the Provost or their designee regarding termination shall be implemented promptly unless appealed to the President.

The bargaining unit faculty member may appeal the recommendation of the Provost to the President within ten (10) working days of receipt of the recommendation of Provost. Appeals to the President must be made in writing and specify the basis of the appeal. The bargaining unit faculty member shall be entitled to submit materials in support of their appeal. The President shall establish a schedule for submission of any materials and determine whether or not to allow oral argument by the bargaining unit faculty member or the Provost or their designee. After deliberating on the appeal, the President may concur with the recommendation of the Provost, remand the matter to the Provost for further consideration or grant the appeal. The President will promptly provide a written report of his or her decision on the appeal to the Union and the bargaining unit faculty member.

The President's decision may be appealed to the Board of Trustees, which has the ultimate authority to take final action to promote the best interests of the University and to protect individual rights. The appeal to the Board of Trustees must be filed with the Secretary for the Board of Trustees within twenty (20) calendar days of receipt of the President's decisions. In its review of the appeal, the Board of Trustees may consult with the President and shall provide both parties an opportunity to present arguments. The Board of Trustees, in its discretion, may receive these arguments in writing, in person, or both.

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If the Board of Trustees makes a decision to deny a bargaining unit faculty member's appeal, the Union may submit the matter to arbitration consistent with the procedures set forth in Section VIII of this Article.

A Union representative may be present at any meeting at any step of the appeal process set forth in this Section.

VII. Mediation

In the event that the parties cannot resolve the grievance at Step Three, before the grievance has been appealed to arbitration, the Union and the University may, by mutual consent, contact the State Employment Relations Board ("SERB") or Federal Mediation and Conciliation Service ("FMCS") for grievance mediation. All time limits shall be suspended while mediation is pending. The Union and the University shall share equally in any mediation costs. If the mediation takes place during the grievant's and/or Union representatives work hours, the grievant and/or Union representative shall not suffer any loss of pay or benefits to attend the mediation.

VIII. Arbitration

1. If the grievance has not been resolved at Step Three, the Union, but not the individual bargaining unit faculty member(s), has the sole right to refer a grievance to arbitration and to conduct the proceeding as a party. Within twenty (20) calendar days of the receipt of the written response from Step Three, or failure of mediation, the Union shall submit a written notice to the Provost, or their designee, of its intent to submit the grievance to binding arbitration. Failure by the Union to request arbitration within twenty (20) days of a denial or mediation will result in the grievance being denied and the right to arbitration is deemed waived.

2. The parties shall have the right to mutually agree upon the arbitrator, but in the event they cannot so agree within twenty (20) calendar days of receipt of the above notice, the parties shall notify the FMCS of their intent to arbitrate a grievance. FMCS shall submit a panel of seven (7) arbitrators to each Party, each of whom shall be members of the National Academy of Arbitrators. In the event that either party finds the initial list of arbitrators to be unacceptable, it may reject the list and request a new list, at their cost, of arbitrators from the FMCS. No

more than three (3) requests for another panel of arbitrators may be made by either party. Each party shall alternately strike a name until one remains. The University shall strike the first name. The person remaining shall be the arbitrator. If the arbitrator thus chosen cannot serve, the parties shall request a new list and begin the selection process anew. The selection of the arbitrator and conduct of arbitration shall be in accordance with FMCS's then applicable rules of procedure.

3. The process of expedited arbitration, under the FMCS rules, may be utilized by the mutual written agreement of the University and the Union, on a case-by-case basis. Neither party is required to agree to expedited arbitration.

4. All decisions of the selected arbitrator shall be final and binding on the University, the Union, and all relevant members of the bargaining unit.

5. The arbitrator shall have no authority to add to, subtract from, or modify this Agreement or modify any procedures (including any time limits) set forth herein.

6. The decision of the arbitrator shall be limited to only the question or questions submitted to the arbitrator, and the arbitrator shall have no authority to determine any other issues not so submitted to them.

7. The arbitrator shall have no jurisdiction or authority to issue an award that changes, modifies or restricts any action taken by the University with respect to the exercise of management rights under Article [Management Rights] of this Agreement.

8. The arbitrator shall have no authority to decide any issue relating to the merits of any academic judgment. For purposes of this Agreement, "academic judgment" means a judgment by the University and those acting on its behalf concerning competence, performance or academic standards. In cases involving academic judgment, the arbitrator shall not substitute their judgment for that of the University nor shall the arbitrator review such decision except for the purpose of determining whether the procedural steps provided in this Agreement or University policy have been followed. If an arbitrator determines that procedural steps have not been followed where an exercise of academic judgment is involved, the arbitrator shall direct the matter to be reconsidered by the appropriate decision maker in accordance with relevant procedural steps under

University policy and procedure. Under no circumstances may an arbitrator override an academic judgment to direct that a bargaining unit faculty member be reinstated, appointed, reappointed, promoted or awarded tenure.

9. If there is a question as to whether the arbitrator has jurisdiction to hear a case, this question must be heard and an immediate bench ruling issued by the arbitrator prior to their hearing and deciding the merits of the case.

10. In disciplinary cases, evidence of all relevant prior offenses and misconduct shall be deemed admissible.

11. If the arbitration takes place during the grievant's and/or Union representatives work hours, the grievant and/or Union representative shall not suffer any loss of pay or benefits to attend the arbitration.

12. Five (5) business days prior to the scheduled hearing, the parties shall exchange the names of any witnesses to be called during their case in chief.

13. The cost of the arbitration shall be borne equally by the parties, including the arbitrator's fees and expenses and the cost of the hearing room. Each party shall pay its own individual expenses, including transcripts and the fees and reimbursement of its representatives and witnesses.

14. The arbitrator shall be requested to issue their decision within thirty (30) calendar days after the hearing or receipt of the transcript of the hearing.

15. No recordings may be made of the hearing, except as needed by the preparer of a transcript.

For the Union:

Date: 11-12-24

For the University:

Date: 11/12/24

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