ARTICLE 4

MANAGEMENT RIGHTS

4.1. Except where expressly limited by the terms of this Agreement, the Board of Trustees, on its own behalf and on behalf of Florida Atlantic University, hereby retains and reserves unto itself all management rights and the powers, duties and authority to plan, govern, manage and control Florida Atlantic University and in all respects carry out the ordinary and customary functions of management.

4.2 The Public Employees Relations Commission has determined that the management rights that are the prerogative of the public employer and retained by the Board of Trustees include, but are not limited to, the right:

a. to determine access to facilities for security purposes;

b. to assign and reassign employees to perform tasks within the basic scope of their employment duties;

c. to create tentative budgets that the Board intends to adopt;

d. to establish class sizes;

e. to fill vacancies;

f. to change the job title of a position;

g. to determine whether to litigate or compromise any lawsuit;

h. to decide whether employees will be laid-off;

i. to set minimum staffing levels;

j. to create a position outside the bargaining unit and select the criteria for the position if that position is not included in the bargaining unit;

k. to delete a bargaining unit position;

l. to change job qualifications for future bargaining unit members and require pre-employment commitments requiring applicants to obtain advanced degrees/training after their initial employment;

m. to reclassify bargaining unit positions when the position would not have been included in the union’s bargaining unit in the first instance;

n. to heighten security on employee access to secured buildings;

o. to create or close colleges, departments, schools, units, or divisions;

p. to subcontract;

q. to alter or modify any policy or practice relating to sharing work with in-unit and out of unit workers;

r. to change the terms of a summer school program;

s. to increase actual teaching time and decrease preparation time;

t. to transfer employees;

u. to determine the semester system offered to the public;

v. to determine the days of services provided to the public;

w. to determine the organization and structure of the University;

x. to manage the University and exercise sole and exclusive control and absolute discretion over the organization and operations thereof;

y. to determine and assign the membership, purpose and functions of the University in its constituent colleges, departments, schools, divisions, bureaus, units or otherwise separated classifications;

z. to alter or vary past practices and otherwise to take such measures as the University may determine to be necessary to maintain order and efficiency relative to both work force and operations/services to be rendered thereby, provided that such exercise is consistent with the express terms of this Agreement.

aa. to set methods, means of operations and standards of services to be offered by the University, and to contract such operations/services to the extent deemed practical and feasible by the University in its sole discretion;

bb. to determine the number of employees to be employed at the University;

cc. to decide the number, location, design, and maintenance of the Universities facilities, supplies and equipment.  To relocate, remodel, or otherwise revise operations and facilities as may be deemed necessary to the University;

dd. to select supervisory and managerial personnel from the working forces strictly on the basis of management’s determination of individual ability, based on examination, performance evaluation, special skills, classifications, and other related elements at the discretion of the University consistent with this Agreement.

ee. to discharge, demote, fine, or suspend any employee of the University, and to take other disciplinary action against such employees, or to relieve such employees from duty in accordance with this Agreement;

ff. to increase, reduce, change, modify or alter the size and composition of the workforce;

gg. to determine the extent of the Universities operations.  To determine when any part of such operation shall function or be halted and to determine when, where and to what extent operations/services shall be increased or decreased, contracted inter-governmentally, subcontracted, continued or discontinued;

hh.  to make, issue, publish, modify and enforce policies, procedures, rules and regulations as the University may reasonably deem appropriate.  The University will act in accordance with this Agreement on such matters.

4.3. The University has the sole, exclusive right to direct the managerial, supervisory and administrative personnel, and any other person not covered by this Agreement, to perform any task in connection with the operation of the University, whether or not normally performed by the employees within the bargaining unit.

4.4. The selection process and assignment of personnel outside of the bargaining unit is the sole responsibility of management and shall not be subject to the grievance and arbitration procedures provided in this Agreement.

4.5 The UFF recognizes that the University has certain obligations to comply with federal, state, and local laws, ordinances, regulations, directives and guidelines that may be applicable to such matters as affirmative action, equal employment opportunities, etc., and shall cooperate in such compliance.  Such matters shall not be subject to the grievance and arbitration procedures provided in this Agreement.

4.6 The University shall have the right, during the term of this Agreement and until a successor contract is ratified or imposed, to terminate selected services and/or operations permanently.  In such event, all obligations hereunder to its affected employees and to the UFF shall forthwith terminate.  The University shall also have the right to suspend selected services/operations in whole or in part and during the period of such suspension this Agreement shall also be suspended without liability in respect to either the UFF or the employees involved.

4.7 Except as otherwise expressly provided in this Agreement, any written rule, regulation, policy or procedure affecting those employees of the bargaining unit in effect prior to, as well as those issued after the effective date of this Agreement, shall remain in full force and effect unless changed, modified, or deleted by the University.  Final authority to change, modify, or delete any rule or regulation rests with the University.

4.8 It is expressly understood by and between the parties to this Agreement that the University shall not be deemed to have waived or modified any of the rights reserved to the University under this article or by law by not exercising said rights in a particular matter or in a particular manner.

4.9 Nothing contained in this Agreement shall abrogate the rights, duties and responsibilities of the University, as provided by law.

4.10 Nothing in this Agreement shall limit the University in the exercise of its managerial functions unless specifically waived herein.  It is agreed that these enumerations of management prerogatives shall not be deemed to exclude other prerogatives of management not specifically enumerated.

4.11 The exercise of the above enumerated managerial rights, except as otherwise provided herein, shall not preclude an aggrieved from filing a grievance pursuant to Article 20, but such grievance can be filed only on the grounds that the action complained of is in violation of the express written terms of this Agreement.

4.12 In the exercise of the above-enumerated rights, the University recognizes its obligations to bargain if the law so requires over such rights or decisions that alter, modify, or impact hours, wages, and terms and conditions of employment of bargaining unit employees.  Nothing contained in this Section shall prevent the University from implementing the proposed right or decision, but any settlement, agreement, or legislative imposition finally reached as a result of negotiations shall be retroactive to the date of implementation.

4.13 Any waiver or limitation of a management right agreed to in this Agreement shall be effective only during the term of this Agreement, and shall expire upon the termination date of this Agreement.