





# COLLECTIVE AGREEMENT

1 JULY 2012 – 30 JUNE 2015

Osgoode Hall  
Faculty Association

AND

York University  
Board of Governors

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## Definitions

**Association** designates the Osgoode Hall Faculty Association (OHFA).

**Board of Governors** is the body referred to by that name and defined in *The York University Act*.

**Dean** designates the senior academic administrator, duly appointed, of the Osgoode Hall Law School unless specified otherwise.

**Employee** designates a member of the bargaining unit, as defined by the Certificate of the Ontario Labour Relations Board dated 31 October 2012, unless specified otherwise.

**Employer** designates the Board of Governors, or its successor, or officers delegated by the Board to act on its behalf.

**Faculty** designates the Osgoode Hall Law School, unless specified otherwise.

**Faculty Member** designates an employee in the bargaining unit.

**Immediate Family** designates a spouse, sibling, parent, or child.

**JOLMC** designates the Joint OHFA Labour Management Committee, established in Article 7 of this collective agreement.

**Labour Relations Act** means the *Labour Relations Act, 1995*, as amended.

**LOAWOP** means leave of absence without pay.

**LTDP** means Long Term Disability Programme.

**Spouse** shall include an individual of the same or opposite sex with whom an employee has been cohabiting for at least one (1) year.

**OHFA** designates the Association.

**President** designates the Vice-Chancellor and Chief Executive Officer of the University, as defined in *The York University Act*.



**PTR** means progress-through-the-ranks.

**Senate** is the body referred to by that name and defined in *The York University Act*.

**University** is the body constituted as York University, as defined by *The York University Act*.

**York University Act** designates *The York University Act, 1965*, as amended.



## ARTICLE 1

# Recognition

The Employer recognizes the Association as the sole and exclusive bargaining agent for all persons employed by York University in the Province of Ontario holding appointments as full-time faculty members of Osgoode Hall Law School, save and except:

- (1) The Chief Law Librarian of Osgoode Hall Law School;
- (2) Associate Deans and those persons at or above the level of Associate Deans, including, but not restricted to, the Dean of Osgoode Hall Law School, and anyone who is appointed to act in those positions;
- (3) Senior Policy Advisor to the President;
- (4) Adjunct or sessional academic appointees;
- (5) Persons holding contractually limited term academic appointments;
- (6) Persons holding non-tenured continuing appointments;
- (7) Faculty members on the Board of Governors;
- (8) Faculty teaching at Osgoode Hall Law School while on leave from another university, institution, firm, or government agency; unless:
  - (a) they hold an academic appointment at Osgoode Hall Law School at York University;
  - (b) they have teaching responsibilities in any academic year equivalent to the normal teaching load for a member of the tenured or tenure stream faculty at Osgoode Hall Law School at York University; and
  - (c) they are on leave without salary from their home university, institution, firm or government agency.
- (9) Emeritus Professors; and

- (10) Persons for whom any trade union held bargaining rights as at February 7, 2012.

**Clarity Note:**

For clarity, persons employed by York University in the Province of Ontario holding appointments as full-time faculty members of Osgoode Hall Law School and who are also cross-appointed or jointly appointed to another Faculty of York University shall have their bargaining unit affiliation based on the Faculty in which they hold the majority of their appointment. In cases where a cross-appointment or a joint appointment is equally divided between two Faculties, the bargaining unit affiliation will be based on the faculty member's home unit.



## ARTICLE 2

### Management Rights, Change in Practice and the Powers of Senate

- 2.01 The Association recognizes and agrees that the management and direction of the University and Osgoode Hall Law School, and the workforce related thereto are and shall remain solely and exclusively within the rights of the Employer, except as specifically limited by an express provision of this collective agreement. The Association further recognizes and agrees with the right of the Employer to operate, manage and direct the University, Osgoode Hall Law School and the workforce in accordance with the Employer's interests and the interests of its students.
- 2.02 The Employer shall exercise its management rights in a manner consistent with the provisions of this Collective Agreement.
- 2.03 The Association and the Employer agree that this collective agreement constitutes the entire agreement between the parties. Subject to the provisions of this collective agreement, the Employer has the right to continue, create, implement, change, discontinue and apply plans, policies, practices and procedures.
- 2.04 Advance notice of changes in existing practices affecting terms and conditions of employment shall be provided in writing by the Employer to the Association through the Joint OHFA Labour Management Committee. Normally at least one month's advance notice in writing will be provided. The parties agree that after the provision of written notice of changes in practice affecting terms and conditions of employment, there will be an opportunity for the parties to discuss the intended changes before the "grievance time clock" begins. Either party may end the discussion period through written confirmation, following which the grievance time clock will begin. A decision by the Employer to change existing practices affecting terms and conditions of employment after notice in writing and discussion at the Committee shall be subject to the grievance and arbitration process for the purpose of determining whether the Employer's decision was

arbitrary, discriminatory, made in bad faith or otherwise unreasonable.

- 2.05 The parties agree that the provisions of this collective agreement shall not operate so as to infringe the powers of Senate, as set out in the York University Act, to which members of the University are subject. It is further agreed that if any clause of this collective agreement is found to infringe the powers of Senate as so set out, that clause will be null.

## ARTICLE 3

### Dues Check-Off

- 3.01 The Employer shall, once in each month so long as this collective agreement continues to operate, deduct from the salary of each employee, such fees, monthly dues, or assessments as may be authorized from time to time by the Association and certified in writing to the Employer by the Association.
- 3.02 The Employer shall remit the amounts deducted to the Association no later than fifteen (15) days after the deductions have been made, and shall inform the Association monthly of the names and ranks of employees from whose salaries deductions have been made, and the amounts so deducted from each employee's salary.
- 3.03 In the event that the Association receives dues hereunder on account of an employee who is excluded from the bargaining unit, or if on account of an employee in the bargaining unit, but in excess of the amount required, the Association agrees to reimburse the employee for or credit him or her with, as the case may be, the amount involved. The Association shall indemnify and save harmless the Employer against any action arising out of the deductions of money for Association dues resulting from the Association's instructions.
- 3.04 The Employer agrees to indicate the amount of the Association's deductions on each employee's T-4 slip.

#### ARTICLE 4

### No Strikes and Lockouts

- 4.01 There shall be no strikes or lock-outs so long as this collective agreement continues to operate.
- 4.02 In the event of a strike or lock-out, employees whose ongoing research requires access to University facilities in order to prevent irreparable damage to research (such as the loss of live and/or decomposable materials) shall be allowed access to the facilities usually associated with such research. Such employees shall indicate their access requirements to the Dean in advance of any strike or lock-out. Such indication to the Dean shall be given by employees in writing within ten (10) days of a notice from the Minister of Labour pursuant to section 79 of the *Labour Relations Act*.



## ARTICLE 5

### Non-Discrimination

- 5.01 The parties agree that there shall be no discrimination exercised or practised with respect to any employee in any matter by reason of physical or mental disability, race, ethnic origin or place of origin, citizenship, creed, colour, ancestry, age, sex, sexual orientation, gender identity, gender expression, marital status, record of offences, or family status, as those terms are defined in the *Ontario Human Rights Code*, nor by reason of relationship, association or dealings with a person or persons identified by a prohibited ground of discrimination or membership or non-membership in the Association, nor previous or impending exclusion from the bargaining unit, nor lawful activity or lack of activity in the Association.
- 5.02 (a) The parties agree that no employee and no officer of the University shall take part in formal procedures, discussions, or vote with regard to the determination of the terms and conditions of employment which apply specifically to a member of his/her immediate family.
- (b) Where the Association apprehends that a conflict exists contrary to the provisions of (a), it may notify the Employer in writing. Upon receipt of such notice, the Employer shall indicate in writing within ten (10) days, its understanding of the situation and any measures it believes are necessary to ensure that 5.02(a) is respected. If the Association is not satisfied with the written response, it may refer the matter to the JOLMC for further consideration.

### Harassment

- 5.03 The parties acknowledge that any member of the York University community who uses the authority of his/her position or role within the University to harass others, sexually or otherwise, is committing an abuse of authority.
- 5.04 The parties are committed to maintaining a working environment that is free from discrimination and



harassment. Consequently the parties do not condone behaviour that is contrary to the *Ontario Human Rights Code* or Article 5, including reprisals, retaliation or threats of reprisals against employees who pursue their rights under this collective agreement not to be discriminated against or harassed contrary to the *Ontario Human Rights Code* or Article 5.

Behaviour which is contrary to the *Ontario Human Rights Code* and Article 5 may include:

- (a) Offensive words or actions by a person(s) who knows or ought reasonably to know that such words or actions demean, belittle and/or cause humiliation to an individual(s) on the basis of a prohibited ground.
- (b) Unwanted attention of a sexually-oriented nature made by a person(s) who knows or ought reasonably to know that such attention is unwanted.
- (c) Clearly expressed or implied promises of reward for complying with sexually-oriented requests or advances.
- (d) Clearly expressed or implied threats of reprisal, actual reprisals, or the denial of an opportunity which would otherwise be granted or available, for refusal to comply with a sexually-oriented request or advance.



## ARTICLE 6

### Association/Employer Relations

- 6.01 The Employer shall not bargain with nor enter into any agreement with an employee or group of employees respecting terms and conditions of employment other than those designated by the Association, except where expressly provided for in this collective agreement. In order that no individual employee or group of employees shall undertake to represent the Association without the Association's proper authorization, the Association shall, immediately upon the signing of this collective agreement, provide in writing to the Employer a list of the names and titles of those of its Officers authorized to transact business with the Employer. The Employer shall likewise, immediately upon the signing of this collective agreement, provide in writing to the Association a list of the names and titles of those of its Officers authorized to transact business with the Association. Each party shall maintain the currency of its list, and each party shall be required to recognize such representatives only when written notice has been received.
- 6.02 Representatives of the Canadian Association of University Teachers, the Ontario Confederation of University Faculty Associations, and any other representatives or counsel chosen by the Association to advise or assist it in carrying out its affairs, shall have access to the University premises to consult with Association officers or employees.



## ARTICLE 7

### Joint OHFA Labour Management Committee

- 7.01 Recognizing the mutual benefits to be derived from joint consultation, the parties agree to maintain a Joint OHFA Labour Management Committee (JOLMC) to comprise three (3) representatives of the Association and three (3) representatives of the Employer.
- 7.02 The Joint OHFA Labour Management Committee shall not have the power to add to or modify in any way the terms of this collective agreement, but shall function in an advisory capacity to the Association and/or the Employer with the general aim of ensuring that this collective agreement is administered in a spirit of co-operation and mutual respect. The Joint OHFA Labour Management Committee shall, further, direct itself to the fulfilment of any tasks explicitly assigned by this collective agreement to the Joint OHFA Labour Management Committee.
- 7.03 The Joint OHFA Labour Management Committee shall determine its own procedures, subject to the following provisions:
  - (a) The Joint OHFA Labour Management Committee shall be chaired jointly by a representative of the Association and a representative of the Employer, who shall together be responsible for preparing and distributing agenda for meetings, and shall alternate in presiding over meetings.
  - (b) The Joint OHFA Labour Management Committee shall meet at least once quarterly, but may meet more or less often, either by mutual agreement of the chairpersons, or, on five (5) days' notice, at the call of either of the chairpersons.
  - (c) A quorum for the Joint OHFA Labour Management Committee shall be four (4) of its members.
  - (d) The parties may, by mutual consent, expand the Joint OHFA Labour Management Committee, or create

subcommittees of the Joint OHFA Labour Management Committee. The membership and procedures of subcommittees shall be determined by the Joint OHFA Labour Management Committee.

- 7.04 In addition to the joint body and joint meetings established under this collective agreement, the Executive of the Association and the President, with whatever senior administrative colleagues she/he chooses to designate, shall meet once each year, upon the request of either the President or the Association, to discuss matters of mutual interest and of concern to the University.

## ARTICLE 8

## Information

- 8.01 The Employer agrees to provide the Association, upon written request, and within a reasonable period of time, with information relevant to the operations of the Osgoode Hall Law School, and of the sort normally made available to the Association and/or the Senate, provided that:
- (a) the Employer shall not be required to prepare reports or analyses of data not normally prepared in the course of the Employer's operations, or that cannot be provided by the making of minor modifications in reports normally prepared;
  - (b) the Employer shall not be required to supply any information which identifies a specific individual and/or which is deemed by the Employer to be confidential with respect to the Employer's formulation of its own position on interpretation or re-negotiation of this collective agreement or on negotiation of subsequent collective agreements. Notwithstanding the foregoing, the Employer undertakes in consultation with the Association to provide the Association with information relevant to the bargaining unit, including but not limited to the following:
    - (i) once each year (usually on or about 1 November) and at such times as adjustments are made to base salaries, the electronic transfer as an *Excel* file or other appropriate data format containing the following information for each employee: name; birth date; sex; year of first degree; highest degree; year of highest degree; year of first full-time appointment at York; year of tenure-stream appointment at York; address contained on the payroll file; joint appointment if relevant; rank; stream; year of promotion(s); year of termination; base salary; stipends; stipendiary administrative appointment(s); and leave status. The costs of transferring this data set shall be borne by the Employer;

- (ii) the names, addresses, salary, classification, rank, term, and year of pre-candidacy/candidacy of all newly appointed members of the bargaining unit, within thirty (30) days of the appointment;
- (iii) once a year, as soon as possible after 30 June, the names of all individuals leaving the bargaining unit; those leaving under the terms of Article 14 will be categorized according to the options set out in Article 14;
- (iv) copies of memoranda of actions taken by the Board of Governors, as released by the Board for the information of the York University community;
- (v) copies of the University's annual audited financial statements, following approval of these by the Board of Governors, any public reports of the York University Development Corporation, and the York Factbook;
- (vi) copies of any statements or representations made or to be made publicly by the Employer or the University.

8.02 The Association shall not be required to supply any information which is deemed by the Association to be confidential with respect to the Association's formulation of its own position on interpretation or re-negotiation of this collective agreement or on negotiation of subsequent collective agreements. Subject to the foregoing, the Association agrees to provide the Employer with the following information:

- (a) copies of any mailings for the Association to either all its members or all members of the bargaining unit, to be sent to the Employer at the same time as the general mailing;
- (b) copies of any statements or representations made or to be made publicly by the Association;
- (c) an up-to-date copy of the Constitution of the Association;
- (d) an up-to-date list of the Executive of the Association.

8.03 Information provided to the Association under Article 8.01(b)(i) or provided by the parties to any joint committee

established by this Collective Agreement, shall be available for use by the Association. However, it is understood that any such information shall not be disclosed or used in a way which would directly or indirectly disclose information about any individual(s).

## ARTICLE 9

## Grievance Procedure

- 9.01 For purposes of this collective agreement, a grievance is defined as a difference arising between the parties relating to the interpretation, application, administration or alleged violation of the collective agreement, including any question as to whether a matter is arbitrable. It is understood that disputes solely over the merits of an academic judgment are not grievable.
- 9.02 The Employer and the Association agree to encourage the prompt and amicable resolution of complaints and the fair and expeditious resolution of grievances. There shall be no discrimination, harassment, or coercion of any kind against a person who elects to use these procedures. The parties agree to be bound by and give prompt and full effect to decisions arrived at under the procedures detailed below, except in those cases where a further stage in the procedures may be invoked.
- 9.03 The Association shall have carriage of all grievances against the Employer from the Grievance Stage onwards. The Employer shall deal only with the Association with respect to a grievance against the Employer.
- 9.04 (a) The parties acknowledge that the time limits set out in both the grievance and arbitration procedures must be strictly complied with.
- (b) Failure by the non-grieving party to respond in accordance with the time-limits set out for each of the stages of the grievance procedures shall entitle movement of the grievance to the next stage of the grievance or arbitration procedure.
- (c) The parties shall, however, have the right by mutual agreement in writing to extend the time-limits set out in the complaint, grievance and arbitration procedures.



## Complaint

- 9.05 It is understood that an employee has no grievance until she has first brought the complaint to the attention of the Dean, or designate, orally or in writing and has given her an opportunity to resolve it. A representative of the Association may represent the employee if the employee so desires. The Employee will attend normally a meeting with the Dean for the purpose of discussing the complaint and may be accompanied by a representative of the Association, if the Employee so desires. In exceptional circumstances, the Association may meet with the Dean without the Employee, if the Employee so desires.

If the complaint is resolved at this stage, the agreed resolution of the matter shall be reduced to writing by the Dean or designate within fourteen (14) days of the resolution and the complainant shall confirm in writing within seven (7) days his or her acceptance of the resolution. The Association shall be provided with a copy of the resolution.

## Grievance

- 9.06 Failing a resolution, an individual grievance must be filed within twenty-eight (28) days after the circumstances giving rise to the grievance have occurred or ought reasonably to have come to the attention of the employee.

If more than one employee is affected by the same factual circumstances a group grievance may be filed, in accordance with the timelines for filing an individual grievance. The grievance shall be in writing and shall include the facts surrounding the grievance, the date the grievance occurred, the remedy sought, and the provisions of the collective agreement which are alleged to have been violated (although an incorrect or incomplete reference will not invalidate the grievance). The Employer will normally meet with the Association for the purpose of discussing the grievance. Failing settlement, the Employer shall deliver a decision in writing within twenty one (21) days following the presentation of the grievance to the Employer.

## Policy Grievance

- 9.07 It is agreed that a grievance arising directly between the Employer and the Association may be raised provided it is raised within twenty-eight (28) days from the time the circumstances giving rise to the grievance have occurred or ought reasonably to have come to the attention of the party

grieving. It is understood, however, that the provisions of this section may not be used with respect to a grievance directly affecting an employee or employees and that the regular grievance procedure shall not be thereby bypassed. The grievance shall be in writing and shall include the facts surrounding the grievance, the date the grievance occurred, the remedy sought, and the provisions of the collective agreement which are alleged to have been violated (although an incorrect or incomplete reference will not invalidate the grievance). Failing settlement, the Employer shall deliver a decision in writing within twenty-one (21) days following the presentation of the grievance to the Employer.

### **Employer Grievance**

- 9.08 It is agreed that a grievance brought by the Employer may be raised provided it is raised within twenty-eight (28) days from the time the circumstances giving rise to the grievance have occurred or ought reasonably to have come to the attention of the Employer. The grievance shall be in writing and shall include the facts surrounding the grievance, the date the grievance occurred, the remedy sought, and the provisions of the collective agreement which are alleged to have been violated (although an incorrect or incomplete reference will not invalidate the grievance). Failing settlement, the Association shall deliver a decision in writing within twenty-one (21) days following the presentation of the grievance to the Association.

## ARTICLE 10

### Arbitration Procedure

- 10.01 Failing settlement under the foregoing grievance procedure, including any question as to whether a matter is arbitrable, a grievance may be submitted to arbitration as hereinafter provided. If no written request for arbitration is received within twenty-one (21) days after the decision is given or was due, the grievance shall be deemed to have been abandoned and shall be inarbitrable.
- 10.02 When either party requests that any matter may be submitted to arbitration as provided in 10.01, it shall make such request in writing addressed to the other party to this collective agreement, and at the same time shall suggest possible sole arbitrators from the list of arbitrators below, it being understood and agreed that the parties shall agree to one of the arbitrators listed below provided the arbitrator can offer a hearing date within six (6) months from the date the grievance was referred to arbitration. In the event none of the arbitrators on the list can offer a hearing date within six (6) months from the date the grievance was referred to arbitration then either party may request the Minister of Labour for the Province of Ontario to appoint an impartial arbitrator. The foregoing does not prevent the parties from suggesting and reaching agreement on an arbitrator who is not on the list.

The agreed list of arbitrators is as follows:

Kevin Burkett, Jane Devlin, Russell Goodfellow, and  
Larry Steinberg.

- 10.03 No person may be appointed as an arbitrator who has been involved in an attempt to negotiate or settle the grievance without the prior written consent of the parties.
- 10.04 No matter may be submitted to arbitration which has not been properly carried through all requisite steps of the grievance procedure.
- 10.05 The arbitrator shall have power to fashion the remedy he or she deems appropriate except in so far as such remedial powers are specifically limited by the terms of this

Collective Agreement. The arbitrator shall not be authorized to make any decision inconsistent with the provisions of this collective agreement, nor to alter, modify, add to or amend any part of this collective agreement.

- 10.06 The decision of the arbitrator will be final and binding upon the parties hereto and the employee or employees concerned.
- 10.07 Each of the parties hereto equally bears the expenses of the arbitrator.
- 10.08 With regard to matters of appointment, tenure, or promotion the arbitrator shall have no jurisdiction to order the Employer to make any appointment or grant tenure or promotion and disagreements concerning solely the merits of an academic judgement shall not be heard or arbitrated by an arbitrator.



## ARTICLE II

## Academic Freedom

- II.01 The parties agree to continue their practice of upholding, protecting, and promoting academic freedom as essential to the pursuit of truth and the fulfilment of the University's objectives. Academic freedom includes the freedom of an employee to examine, question, teach, and learn; to disseminate her opinion(s) on any questions related to her teaching, professional activities, and research both inside and outside the classroom; to pursue without interference or reprisal, and consistent with the time constraints imposed by her other University duties, her research, creative or professional activities, and to freely publish and make public the results thereof; to criticize the University or society at large; and to be free from institutional censorship. Academic freedom does not require neutrality on the part of the individual, nor does it preclude commitment on the part of the individual. Rather, academic freedom makes such commitment possible.
- II.02 When exercising their rights of action and expression as citizens, employees shall endeavour to ensure that their private actions or expressions are not interpreted as representing positions of York University. Any published views of the Administration concerning the Association shall be clearly identified as representing the views of the York University Administration.



## ARTICLE 12

## Professional Responsibilities

- 12.01 An employee's professional obligations and responsibilities to the University shall encompass: (a) teaching; (b) research, scholarly or creative activity; (c) service to the University. While these duties may vary from individual to individual, they constitute the employee's principal obligation during the employment year, and include, without being restricted to, responsibilities as follows:
- (a) An employee shall carry out his/her responsibility for teaching with all due attention to the establishment of fair and ethical dealings with students, taking care to make himself/herself accessible to students for academic consultation, to inform students adequately regarding course formats, assignments, and methods of evaluation, to maintain teaching schedules in all but exceptional circumstances, to inform students adequately of any necessary cancellation and rescheduling of instruction, and to adhere to the schedules for submission of grades and evaluations set by his/her Faculty. In addition to formal classroom commitments, employees are expected to accept such informal teaching tasks as supervision of graduate students and supervision of directed research projects by JD students. Employees are expected to prepare and revise teaching materials carefully, prepare for each class or seminar session, and pay proper attention to administering examinations and other systems of evaluation.
  - (b) An employee shall be entitled to and expected to devote a reasonable proportion of his/her time to research, scholarly or creative work. He/she shall endeavour to make the results of such work accessible to the scholarly and general public through publications, lectures, and other appropriate means. Employees shall, in published works, indicate any reliance on the work and assistance of academic colleagues and/or students.

- (c) Service to the University is performed by employees through participation in the decision-making councils of the University and Osgoode Hall Law School, and through sharing in the necessary administrative work of the Faculty, the University, or the Association. In performance of these collegial and administrative activities, employees shall objectively assess the performance of their colleagues, shall avoid discrimination, shall not infringe their colleagues' academic freedom, and shall observe appropriate principles of confidentiality.

In performance of their professional responsibilities employees shall deal fairly and ethically with their colleagues, students, and other members of the University community.

In the performance of their professional responsibilities, including any supervisory responsibilities, employees shall observe and comply with relevant provisions of the *Occupational Health and Safety Act* and the Regulations thereto.

### **Misconduct in Academic Research**

12.02 Misconduct in academic research is defined as:

- (a) any conscious act of fabrication or plagiarism associated with the proposing, conducting, reporting or publication of research, but does not include differences in opinion, honest error or honest differences in interpretation or assessment of data or research results;
- (b) material failure to comply with federal or provincial regulations for the protection of researchers, human subjects or the public, or for the welfare of laboratory animals, or material failure to meet other federal or provincial requirements as agreed to between the parties to this collective agreement that relate to the conduct of research;
- (c) failure to reveal to the sponsors any material conflict of interest which might be expected, on reasonable grounds, to be unknown to the sponsors and which might influence the sponsor's decisions on whether the employee should be asked to undertake reviews of research grant applications or to test products for sale or distribution to the public;

- (d) failure to reveal to the University any material financial interest in a company that contracts with the University to undertake research, particularly research involving the company's products, or to provide research related materials or services. Material financial interest means ownership, substantial stock holding, a directorship, significant honoraria or consulting fees but does not include minor stock holding in publicly traded corporations;
  - (e) any breach of the Tri-Agency Policies with respect to research integrity, Agency applications, management of Agency award funds or "the conduct of certain types of research activities" set out in the *Tri-Agency Framework: Responsible Conduct of Research* not covered in 12.02(a-d) above.
- 12.03 In the case of any allegation of misconduct in academic research against or by an employee, the Employer, any employees who are involved in the complaint and the Association shall take all reasonable steps to keep the matter confidential, subject to applicable laws and University and Tri-Agency policies.
- 12.04 (a) An allegation of misconduct in academic research shall be in writing, and directed to the President. The President may refer the allegations to a designate. Within ten (10) days of the receipt of the allegation(s), the President or designate shall notify, in writing and with a copy of the allegation, the individual(s) named in the allegation.

The President or designate shall make reasonable and confidential enquiries to determine whether the allegation(s) have sufficient substance to warrant investigation. The enquiries shall be completed within thirty (30) days of the receipt of the allegation(s). The parties to this collective agreement recognize that although time is of the essence, there may be exceptional circumstances whereby the enquiries cannot be completed within the thirty (30) days. Therefore, the parties to this collective agreement agree that in exceptional circumstances the thirty (30) day limit may be extended for one further period not to exceed fifteen (15) days.

- (b) If, in the opinion of the President or designate, the allegation(s) do not have sufficient substance to warrant investigation, the allegation(s) shall be dismissed and no action taken. The Employer shall



remove all documentation within thirty (30) days from the individual's file as per Article 21, and shall not use the documentation for any employment related purpose affecting the employee against whom the allegations were made.

- (c) If, in the opinion of the President or designate, the allegation(s) have sufficient substance to warrant investigation, the President or designate shall inform the employee named in the allegation(s), in writing and with a copy to the Association. The written notice shall include a copy of the signed allegation(s), shall inform the employee of his/her right to be represented by the Association, and shall advise the employee of his/her right to contact the Association before responding to the allegation(s).
- 12.05 (a) Within thirty (30) days after the employee named in the allegation(s) has received the written notice, the President or designate shall convene a committee of three (3) individuals to assist in the investigation of the allegation(s). Two (2) members of this committee shall be academics working in the same discipline as the employee named in the allegation(s). The composition of the Committee may be subject to the further requirement that it include at least one external member who has no current affiliation with the University under the terms of the *Tri-Agency Framework: Responsible Conduct in Research*.
- (b) The Committee shall investigate the allegation(s) promptly, fairly, and judiciously. The employee named in the allegation(s) shall have adequate opportunity to know all evidence presented, the right to address the Committee on the matters before it, and the right to be represented by a person of his/her choice. During the course of the investigation, an authorized representative of the Association shall have the right to be present at any meeting involving the employee named in the allegation(s).

The Committee shall complete its investigation and provide a report to the President and the employee, with a copy to the Association, within one hundred (100) days of its having been initially convened. The parties to this collective agreement recognize that although time is of the essence, there may be exceptional circumstances whereby the investigation and report cannot be completed within the one hundred (100) days. Therefore, the parties to

the Agreement agree that the one hundred (100) day time limit may be extended only by mutual agreement between the parties.

- (c) The employee may provide written comments in respect of the report to the President, prior to the President making a decision. The employee must submit such written comments within 7 days of receipt of the report.
  - (d) The President or designate shall make a determination within twenty-eight (28) days of receiving the report as to whether the allegation(s) of misconduct in academic research has been sustained. The parties to the Agreement recognize that although time is of the essence, there may be exceptional circumstances whereby the President or designate cannot make his/her determination within twenty-eight (28) days. Therefore the parties to this collective agreement agree that the twenty-eight (28) day limit may be extended for one further period not to exceed seven (7) days.
- 12.06 (a) If the determination is that the misconduct in academic research constitutes adequate cause for dismissal, as set out in Article 16, the President shall expeditiously initiate the procedures of Article 16.
- (b) Any other discipline imposed on an employee for misconduct in academic research shall be subject to Articles 9 and 10 (Grievance and Arbitration). A statement from the Employer that an individual is guilty of misconduct in academic research without any other sanction constitutes discipline and may be grieved/arbitrated.
- (c) If the determination is that misconduct in academic research has not taken place, the allegation(s) shall be dismissed and the individual shall be so notified in writing with a copy to the Association. The Employer shall remove all documentation within thirty (30) days from the individual's file as per Article 20 and shall not use the documentation for any employment related purpose affecting the employee against whom the allegations were made.
- 12.07 (a) The Employer agrees to take such steps as may be both necessary and reasonable to protect the reputation and credibility of persons wrongfully accused of misconduct in academic research. The Employer agrees to take such steps as may be both necessary



and reasonable to protect the rights of members of the bargaining unit who make allegations in good faith or who are called as witnesses before the investigation committee or in arbitration proceedings.

- (b) Allegations of scholarly misconduct in academic research which are reckless, malicious, or made in bad faith may be the cause of disciplinary action.

12.08 The parties recognize that the University is required to comply with the Tri-Council Agency Framework: Responsible Conduct of Research ("the Framework"), including the Framework's Institutional Policy Requirements for Addressing Allegations of Policy Breaches and Reporting Requirements. Accordingly, in the event that there is a conflict between the provisions of this collective agreement and the provisions of the Framework, the terms of the Framework will take precedence and adherence to the Framework will not be deemed to be a breach of the collective agreement, so long as the University is required to comply with the Framework. Where the Employer believes that there is such a conflict, the Employer shall notify the Association, indicating the nature of the conflict.

## ARTICLE 13

## Appointments

- 13.01 Appointments to the full-time faculty in the bargaining unit shall fall into one of three (3) classifications:
- (i) tenured,
  - (ii) probationary,
  - (iii) visiting faculty that meet the criteria in Article 1(8).

### Ranks

- 13.02 Rank titles shall be: Assistant Professor, Associate Professor, and Professor.

### Appointment Classifications

- 13.03 Tenured appointments are defined as appointments without term, which may be terminated only through resignation, retirement, dismissal for cause (as set out in Article 16), or lay-off (as set out in Article 23).
- 13.04 Probationary appointments are defined as appointments lasting up to a maximum of six (6) years, during which time the University and the employee are afforded an opportunity for mutual appraisal. Probationary appointments end in a tenured appointment or in termination of the appointment.
- 13.05 Visiting faculty appointments are term limited appointments which carry no implication of renewal or continuation beyond the stated term and no implication that the appointee shall be considered for tenure.

### Appointments Selection

- 13.06 All Faculty appointments are made by the Board of Governors, which may make appointments only on the recommendation of the President.

### CRITERIA

- 13.07 The principal criterion for appointment to positions in the Faculty is academic and professional excellence as

generally understood in Faculty practice and as embodied in principles which form part of this collective agreement.

- 13.08 The University shall have an Employment Equity Plan in respect of the Osgoode Hall Law School employee appointments process.

#### COLLEGIAL PROCEDURES

- 13.09 (a) All recommendations for appointment of employees are made in writing to the President by the Dean. The Dean shall, at the same time as she or he informs the president, provide notice of the recommendation to the chair of the appointments committee and to the Association. The parties to this collective agreement acknowledge the importance of collegial assessment in the process of evaluating candidates for appointment to the full-time faculty.
- (b) The evaluation and recommendation of candidates for probationary or tenured appointments in Osgoode Hall Law School shall be carried out in the first instance in the Faculty using the Faculty's established procedures as approved by Faculty Council. Allegations of a violation of procedural requirements may be grieved and arbitrated. If an appointment is to be made which entails appointment to more than just Osgoode Hall Law School, the procedures to be utilized shall be identified and set out in advance prior to the commencement of appointment procedures.
- (c) In the exceptional circumstance in which the Dean declines to recommend to the President for appointment to a probationary or tenured position the individual recommended for appointment by the Faculty appointments committee, the Dean shall indicate in writing to the chair of the appointments committee the reason why he or she declined to recommend the appointment committee's recommended candidate. The Dean's decision shall be subject to the grievance and arbitration procedures in Articles 9 and 10 for the purpose of determining whether the Dean's assessment of the circumstance as exceptional was justified.
- (d) In exceptional circumstances, the Dean may alter the established procedures. In such circumstances the Dean shall indicate in writing to the Faculty and the Association the exceptional circumstances occasioning the departure from established practice. The altered

procedures shall be approved by the Faculty. The Dean's decision shall be subject to the grievance and arbitration procedures established by this collective agreement, for the purpose of determining whether the Dean's assessment of the circumstances as exceptional was justified.

- (e) In determining grievances on matters of appointments, the arbitrator shall have the powers set out in clauses 10.05 and 10.08, except that he or she shall not have the power to remove an incumbent, to direct the appointment of a specific individual, or to alter the rank at which the appointment has been recommended or made.

#### LETTERS OF APPOINTMENT

- 13.10 The letter of appointment from the Dean to the prospective appointee shall:
  - (a) specify the classification, rank, and initial base salary of the appointment;
  - (b) stipulate whether or not the initial salary offer includes or excludes any additional increments already negotiated or yet to be negotiated between the Association and the Employer;
  - (c) set out the nature of the position being offered, including, to the degree possible, a job description, and, where applicable, any special requirements that may be applied in determining the future movement of the appointee from pre-candidacy to candidacy and his or her application for tenure or promotion (such as the completion of a degree or research in progress);
  - (d) provide a link to an electronic version of this collective agreement.



## ARTICLE 14

## Tenure and Promotion

- 14.01 The parties agree that promotion of probationary and tenured employees from one rank to another, the award of tenure to employees, the renewal or non-renewal of the appointments of employees in the pre-candidacy phase of a probationary appointment, and their advancement to the candidacy phase shall be by action of the Board of Governors, only upon recommendation of the President. The President shall, in making his/her recommendations, act in conformity with existing practices with respect to criteria and procedures for promotion and tenure, in so far as they relate to terms and conditions of employment. It is agreed that the existing practices are those as set out in the Tenure and Promotion Policy, Criteria and Procedures document as of 1 September 2012. Amendments to these criteria and procedures shall require the approval of both parties.

The documents referenced above are printed under separate cover and form part of this Collective Agreement.

- 14.02 The recommendation of the President to the Board of Governors or his/her decision not to make a recommendation to the Board of Governors in respect of clause 14.01 above shall be subject to the grievance and arbitration procedures set out in Articles 9 and 10 of this collective agreement. Such grievances shall be limited to:
- (a) allegations of irregularity or defect, of a nature sufficiently serious to justify quashing the decision, in the application of the procedures established in clause 14.01;
  - (b) allegations of violation of academic freedom (as defined in Article 11) or of discrimination (as defined in Article 5).

An arbitrator shall be limited in his/her jurisdiction to the matters set out in (a) and (b) of this clause, and shall be without power to reverse the President's decision or recommendation or to award tenure or promotion, but



may quash the President's decision or recommendation on the grounds set out in (a) or (b). In such cases, time-limits established by existing practices for the processing or recommendations shall be appropriately amended.

- 14.03 Any alteration of procedures in a particular case necessitated by an arbitrator's decision to quash a decision on grounds of discrimination or violation of academic freedom shall be subject to approval by the parties.





## ARTICLE 15

# Retirement

### Preamble

The clauses of Article 15, which govern the retirement of full-time faculty employees, are premised on the principle that the timing of an individual's retirement from the University, and the assumption of any part-time responsibilities following retirement shall in the normal case be influenced primarily by the wishes of the individual.

### General Conditions and Definitions

- 15.01 (a) "Retirement" means the voluntary termination of an employee's full-time status at York University at any time after that employee would, if a member of the York Pension Plan, be eligible to receive a pension from the York Pension Plan (i.e., anytime after attainment of age 55). Continuation in a part-time capacity, or as "professor emeritus" or "senior scholar" is not inconsistent with the use of the term "retirement".
- (b) Employees shall be eligible to retire from the University and (assuming that they have been members of the York Pension Plan) shall be eligible to receive a York Pension, at any time following attainment of age 55. The York Pension Plan defines normal retirement date as 1 July coincident with or next following an employee's 65<sup>th</sup> birthday.
- 15.02 Employees may retire effective 1 January or 1 July and will provide a minimum of nine (9) months written notice of the date on which they plan to retire. Retirements with less than nine (9) months advance notice in writing may be approved by the Dean and the Vice-President Academic and Provost. In the event of a notification of amendment to the Pension Plan, the notice period for retirement may be less than nine (9) months if, following notification of the Pension Plan amendments, the nine (9) month notice period would not enable an employee to retire on a July 1 or January 1 prior to the implementation of the Pension Plan amendments.

## SPECIAL CONDITIONS (SABBATICALS)

- 15.03 (a) Employees taking their last sabbatical leave within the last five (5) years before their normal retirement date as defined in the York Pension Plan and choosing to take that sabbatical leave for one (1) full year, shall be entitled to receive Pension Plan contributions by the Employer based on their full academic base salary, rather than their actual sabbatical salary, if they elect to make their own pension contributions on the basis of the full academic base salary. When contributions are made on the basis of the full academic base salary rate, that salary shall be used in the Pension Plan's computation of the individual's average of five (5) highest years of earnings.

In order to be eligible for the pension top-up provision under 15.03 (a), employees must confirm in writing that the sabbatical for which they are requesting the top-up provision is indeed their final sabbatical and that they are waiving their entitlement to any subsequent sabbaticals.

- (b) There will be no entitlement to payments in respect of accrued sabbatical credits.

## ELIGIBILITY FOR SALARY INCREMENTS

- 15.04 An employee who continues on full-time or full-time reduced-load basis past the July 1 coincident with or next following the employee's 65th birthday shall be eligible for general adjustment increments to his/her annual salary, as negotiated by the Association, and for any merit increments, and Progress-through-the-Ranks increments, in accordance with Article 24.

## IMPLICATIONS FOR LONG-TERM DISABILITY INSURANCE

- 15.05 The Employer agrees to extend LTDP coverage for employees continuing full-time or full-time reduced-load past the July 1 coincident with or next following the employee's 65th birthday until he/she reaches the age at which receipt of pension payments becomes mandatory.

## ELIGIBILITY FOR IRREVOCABLE REDUCED LOAD, RETIREMENT PLANNING CENTRE, CONTINUING MEMBER, PROFESSOR EMERITUS AND SENIOR SCHOLAR

- 15.06 To be eligible for the status and/or provisions defined in Article 15.07, 15.08, 15.09, 15.10 and 15.11, an employee shall hold tenured appointment status and have normally

held his/her appointment at York for at least five years of active service (i.e., including sabbatical, but not LOAWOP), prior to the commencement of the selected option, or the July 1 coincident with or next following the employee's 65th birthday, whichever date occurs first.

#### PHASED-IN RETIREMENT (IRREVOCABLE REDUCED-LOAD STATUS)

- 15.07 Employees who provide written irrevocable notice of their intention to retire on 1 July in any year following attainment of age 55 may voluntarily elect irrevocable reduced-load status for the intervening years leading up to the year of retirement subject to the provisions set out below:

Irrevocable workload reduction (with an equivalent teaching load reduction) for a maximum period of ten (10) years ending no later than 30 June in the year in which payment of pension is mandatory and corresponding salary rate reduction from 20% to 80% of normal load and normal salary, with the Employer's contribution to pension and salary based benefits to be at 100% of nominal base salary rate, and the Employer to contribute also the amount required to bring the employee's contributions up to 100% of full nominal rate. An employee with this status may further reduce her/his load (with an equivalent teaching load reduction) in subsequent years to a minimum of 20% of normal load and normal salary on the giving of nine (9) months advance written notice, and with the written agreement of the Dean. Such agreement shall not be unreasonably denied and such reasonable denial will normally be based on budgetary reasons. For clarity, the irrevocable reduced-load can decline but cannot increase from any year to the next year (for example, Year 1 80%, Year 2 60%, and Year 3 40% would be permissible but Year 1 60%, Year 2 80%, and Year 3 40% would not be permissible or Year 1 and 2 80%, Year 3 60%, Year 4 40%, and Year 5 20% would be permissible but Year 1 60%, Year 2 80%, Year 3 40%, Year 4 60%, and Year 5 20% would not be permissible).

#### RETIREMENT PLANNING CENTRE

- 15.08 The Employer agrees to provide Employees and Retired Employees with access to all services provided by the Retirement Planning Centre. Employees will have made available to them, through the Retirement Planning Centre, individual financial counselling, to a maximum cumulative expense of \$850 per Employee.

## CONTINUING MEMBERS

- 15.09 Subsequent to their retirement, former employees shall be designated as “continuing members of York University” and of their Faculty, and shall be accorded continuation of or be eligible for:
- (i) faculty library privileges;
  - (ii) University affiliation for external research grant application purposes;
  - (iii) email privileges, subject to availability;
  - (iv) free athletic memberships;
  - (v) limited extended health care and dental plan coverage according to the terms and levels of benefits in effect as of 1 September 2012 except as they are modified by this collective agreement. A statement of the terms and levels of the various benefits shall be provided by the Employer to the Association within 60 days of ratification and shall be considered to be part of this collective agreement.

## PROFESSOR EMERITUS AND SENIOR SCHOLAR

- 15.10 Employees who retire from the University shall carry the “emeritus” title appropriate to their rank and may, by notification to the Dean up to six (6) months following retirement, elect the designation of “Senior Scholar.” In addition to the entitlement of “continuing members of the University,” Senior Scholars shall be entitled to:
- (a) use of an office on a dedicated or shared basis, depending upon availability;
  - (b) access to secretarial services, subject to availability;
  - (c) computer time, subject to availability;
  - (d) a Professional Expenses Reimbursement at the same rate of \$1450 per year for reimbursement of expenses incurred in pursuing professional scholarship for a maximum period of fifteen (15) years ending no later than the tenth year after the July 1 coincident with or next following an employee’s 65th birthday.

The entitlement in (a)-(c) shall be reviewed annually with respect to availability but shall, in any event, cease

at the end of the sixth year after retirement, although the Dean may accord such benefits thereafter in his or her discretion.

- 15.11 In the two years immediately following retirement, a Senior Scholar will be provided with a reasonable opportunity to teach courses which have been taught by that Senior Scholar in the three academic years immediately preceding retirement in priority to individuals who are not Employees, subject to the following:
- (i) the senior scholar retires no later than 5 years following the July 1 coincident or next following his or her 65<sup>th</sup> birthday;
  - (ii) the Dean must have made a prior determination that it is desirable that the courses in question be offered in the academic year in question;
  - (iii) no Senior Scholar shall be entitled to be offered the opportunity to teach more than two courses in a single academic year;
  - (iv) no Senior Scholar shall be entitled to teach a course where that Senior Scholar is unlikely to meet a reasonable standard of competence, as reflected in teaching evaluations for the course(s) in question in the three years immediately preceding retirement; and
  - (v) teaching opportunities provided under the terms of this Article will be remunerated at the overload rate defined in 24.09.

The Dean may, in his or her discretion, invite a Senior Scholar to teach a course or seminar with remuneration for such teaching at the overload rate defined in 24.09 or, in consultation with the Director of the Graduate Program, to supervise graduate students. The Dean may also invite a Senior Scholar to undertake other duties or responsibilities as the Dean may in his or her discretion deem appropriate.

#### Early Retirement Options

- 15.12 (a) *Definitions:* "Voluntary separation" is defined as the resignation of an employee in return for a severance payment by the Employer to the employee.

"Severance payment" may include, but is not restricted to, a monetary payment, leaves of absence

on a paid and/or unpaid basis, medical and pension benefit arrangements.

- (b) The parties acknowledge that an employee may enter into a voluntary separation agreement with the Employer provided the Employer and the employee reach agreement as to the terms of such a voluntary separation. Further, the Employer agrees to consider, with an individual employee, the possibilities for voluntary separation of that employee from his/her employment at York University. Subject to paragraph (c), below, it is understood that the Employer and the employee each have the discretion to refuse to agree to any particular voluntary separation agreement proposal.
- (c) An employee with tenure who retires from the University between the age of X (X = 60, 61 ... 65) and the July 1 coincident with or next following the employee's 65th birthday shall receive as financial assistance in his/her retirement from the University an amount equal to:

$$\begin{aligned}
 & \text{The average academic base salary rate} \\
 & \quad \text{for employees of age X} \\
 & \quad \text{in the academic year} \\
 & \quad \text{immediately preceding retirement,} \\
 & \quad \text{TIMES} \\
 & \quad \text{the number of years and part years*} \\
 & \text{(e.g., one (1) year and six (6) months equals 1.5)} \\
 & \quad \text{remaining from time of retirement} \\
 & \quad \text{to the July 1 coincident with or next following} \\
 & \quad \text{the employee's 65th birthday,} \\
 & \quad \text{DIVIDED BY} \\
 & \quad 5.
 \end{aligned}$$

\*Note that the number of years and part years remaining until the the July 1 coincident with or next following the employee's 65th birthday for the purpose of this Article will be calculated in terms of a 1 July or 1 January retirement date, i.e., the number of years remaining until the the July 1 coincident with or next following the employee's 65th birthday will be calculated in whole and half years. If an employee fails to provide a minimum of nine (9) months' written notice of the date on which she/he plans to retire early as required by 15.02, the employee's number of years and part years for the purposes of the formula above will be reduced by six (6) months (e.g., if an employee retiring 1 July with two (2) years remaining



until the the July 1 coincident with or next following the employee's 65th birthday fails to provide nine (9) months' notice, his/her "number of years and part years" will be 1.5 rather than 2 for the purposes of the formula). In the event of a notification of amendment to the Pension Plan, the notice period for retirement may be less than nine (9) months if, following notification of the Pension Plan amendments, the nine (9) month notice period would not enable an employee to retire on a July 1 or January 1 prior to the implementation of the Pension Plan amendments.

To be eligible for such payment, the employee must:

- (i) hold a tenured appointment;
- (ii) have active service at York University, including sabbatical but not LOAWOP, of at least twice the number of years remaining from the time of retirement to the July 1 coincident with or next following the employee's 65th birthday, to a maximum of eight (8) such years.

These sums shall be paid to the employee in whatever form the employee designates and is acceptable under the regulations of the Canada Revenue Agency. Financial counselling will be available to the employee, pursuant to 15.08.



## ARTICLE 16

## Dismissal for Cause

## Definitions

- 16.01 “Dismissal” means the termination of an appointment by the Employer without the consent of the employee, before the end of the appointment period, and shall be only for adequate cause. Neither the non-renewal of visiting faculty appointment within the meaning of 13.01(iii) or a probationary appointment, nor the decision not to grant tenure, nor lay-off for reason of financial necessity, nor the termination of an appointment for the purpose of retirement, constitutes dismissal.
- 16.02 “Adequate cause” for dismissal shall be predicated upon misdeeds that are grave and unusual and that directly render an employee unfit to discharge his or her professional responsibilities as defined by this collective agreement. Such misdeeds shall not include conduct properly characterized as the exercise of freedom of speech, association, or belief, or non-conforming personal or social behaviour. “Non-conforming personal or social behaviour” shall not include failure to conform to the terms of this collective agreement or to carry out the duties and responsibilities stipulated herein.
- 16.03 Adequate cause constituting unfitness shall include and be limited to:
- (a) failure to discharge professional responsibilities as defined by this collective agreement either through (i) incompetence, or (ii) persistent neglect, including persistent neglect of duty to students or scholarly/professional pursuits;
  - (b) gross misconduct leading to the significant and persistent abridgement of the academic freedom of other members of the University community;
  - (c) gross professional misconduct;



- (d) gross misconduct constituting a direct and grave violation of the personal safety of another member or members of the University community.

### Procedures

- 16.04 The President shall initiate dismissal procedures by notifying the employee in writing to meet with him/her in the presence of the Dean, no earlier than seven (7) days and no later than fourteen (14) days after such notification. Such notification shall include precise reference to all the pertinent information in this collective agreement and in any other documents of the University relevant to charges germane to dismissal for cause. In this and in all further proceedings, the affected employee shall be permitted to be accompanied by an adviser of his/her choice. The Association shall also have the right to be present at such meetings and shall be given reasonable notice. An attempt shall be made at this initial meeting to resolve the matter in a manner satisfactory to all concerned.
- 16.05 If the employee fails to appear at the meeting provided for in 16.04, or if no satisfactory resolution is reached at the meeting, and if the President chooses to pursue the matter, the President shall inform the employee in writing by receipted delivery of the decision to proceed with dismissal and the charges against him/her providing the basis for the dismissal no later than twenty-eight (28) days after the meeting.

Failure of the President to inform the Employee of the decision to proceed with dismissal and the charges against him/her within the designated time period shall result in the termination of the dismissal proceedings unless otherwise agreed by the Parties. If proceedings are terminated at this or subsequent stages of the procedures, the Employer shall not re-institute dismissal proceedings based on the same specific misdeeds and circumstances unless the Employer becomes aware of new evidence.

- 16.06 The President's decision to dismiss an employee under the terms of this article is subject to the grievance and arbitration process in Articles 9 and 10.

## ARTICLE 17

### Discipline

- 17.01 Discipline of employees by the Employer shall be only for just cause, taking into account if appropriate the principle of progressive discipline.

#### **Failure to Fulfill Professional Responsibilities**

- 17.02 Failure to fulfill professional responsibilities in accordance with Article 12 may result in discipline, including the denial of a Progress-through-the-Ranks increment provided for in Article 24. Such discipline shall apply only in appropriate circumstances. A decision to deny a Progress-through-the-Ranks increment, if adopted, shall be part of a process of progressive discipline related to an employee's failure to fulfill professional responsibilities.

Should the Dean decide that disciplinary action may be warranted, the employee shall be notified in writing. A copy of this letter shall simultaneously be sent to the Association.

The Dean shall meet with the employee to discuss the alleged cause for discipline and seek resolution. The employee may submit any documentation s/he deems relevant. The employee shall be entitled to representation by the Association.

If, after the meeting, the Dean concludes that discipline is warranted, the employee shall be notified in writing of the disciplinary action. A copy of this notice shall simultaneously be sent to the Association. Any disciplinary decision not confirmed in writing in this manner shall not be acted upon and all related documentation shall not form part of any file.



## ARTICLE 18

# Terms and Conditions of Employment

### Length of the Employment Year

- 18.01 The employment year shall normally be from 1 July to the subsequent 30 June, and shall include eleven (11) months of professional obligations and responsibilities to the University (as defined in Article 12) and one (1) month's vacation, payment for which is included in the annual salary. Employees with appointments of less than twelve (12) months shall receive a portion of one (1) month's salary pro-rated according to the fraction which their appointments are of twelve (12) months.

### Holidays

- 18.02 Employees are entitled to the following holidays: Canada Day, Civic Holiday, Labour Day, Thanksgiving Day, the day before Christmas, Christmas Day, Boxing Day, New Year's Day, Family Day, Good Friday, Victoria Day, and any other day proclaimed as a holiday by the University or as a statutory holiday by federal or provincial authorities, and:
- (a) 27, 28, 31 December 2012;
  - (b) 27, 30, 31 December 2013;
  - (c) 29, 30, 31 December 2014.

### Payment of Salaries

- 18.03 Salaries and administrative stipends are paid to employees in twelve (12) equal installments, by payment to their bank, credit union, or trust account on the 25<sup>th</sup> day of each month. When the 25<sup>th</sup> falls on a Sunday or a Monday holiday, payment is made on the following day. When the 25<sup>th</sup> falls on a Saturday or a Friday holiday, payment is made on the previous day.

### Outside Professional Activities

- 18.04 The nature of the professional competence of many employees affords opportunities for the exercise of that competence outside the employee's University duties, on

both remunerative and non-remunerative bases. Recognizing that such outside professional activities can bring benefits to and enhance the reputation of the University and the capacities of employees, the Employer agrees that employees have the right to engage in part-time outside activities paid or unpaid, including participation in their Professional Associations and/or Learned Societies or professionally-related community service, provided that such activities do not interfere with their obligations, duties, and responsibilities to the University, and subject to the following conditions:

- (a) Employees shall, upon request, make available to the Dean or designate information on the scope of outside activities of a substantial or continuing nature. Further, between requests, employees shall report to the Dean the fact and scope of outside activities of a substantial or continuing nature.
- (b) When an employee's outside activities involve the use of University facilities, supplies, or services, permission for the use of such facilities, supplies, or services, and agreement on appropriate reimbursement therefore shall be obtained in advance by the employee from the Dean or designate. Costs in excess of the agreed reimbursement shall be borne by the employee on the request of the Employer.

#### **Reimbursement of Expenses While on University Business**

- 18.05 The Employer will reimburse its employees the same as administrative staff for actual out-of-pocket expenses, including travel expenses, which are reasonable and appropriate to the type of University business to which they are related and which are in accordance with applicable laws and University policies. Expenses will be reimbursed for University business for which specific prior authorization has been given.

#### **Workload of Faculty Members**

- 18.06 The workload of faculty members shall include teaching, research/scholarly/creative activities, and service to the University. The Employer shall attempt to achieve an equitable distribution of workload among faculty members.
- 18.07 The service component of normal workload is recognized as including, without limitation, contributions to the governance of the University; participation in collegial

academic and administrative activities; participation in the Association and joint Employer-Association committees; service to organizations outside the University which is of an administrative nature and not part of an employee's research program, such as serving on review committees for awards, grants and scholarships; and service to the external community demonstrably relevant to the University's academic priorities. Service to the University is an important part of one's professional obligations and responsibilities.

Service may include both service of a routine administrative nature, as well as service which contributes to the academic goals and governance of an employee's Faculty, the Association and the University as a whole. Consideration of service may distinguish between membership on and leadership of the various activities and committees. The time horizon used in considering service may exceed one (1) academic year.

- 18.08 Normally, the structure, format and mode of delivery of courses shall be determined by the relevant unit(s) in conformity with the requirements of the curriculum as approved by Senate and with established practices.

For the purposes of Article 18, alternate modes of delivery of instruction include correspondence courses, and courses delivered all or in part by technologically enhanced instruction, including, but not limited to, computer-mediated conferencing, teleconferencing and the Internet.

The parties agree to refer issues respecting courses employing alternate modes of delivery, including appropriate class size, to the JOLMC, which may make recommendations to the parties and, where relevant, to the appropriate Senate committees.

Employees assigned to teach courses delivered by alternate modes, as defined above, shall be provided with all reasonable technological and human resources required to develop and to conduct the course. Employees shall be provided with necessary training in the use of required technology. Employees shall be notified in writing before such a course is assigned, of the resources available to them, and any travel requirements associated with the course.

- 18.09 An employee will not normally be required to teach more than five (5) days in any week. An employee will

not normally be required to teach over a period of time spanning more than ten (10) hours in any one (1) day. An employee will not normally be required to teach within eleven (11) hours following the end of his/her scheduled teaching on one (1) day and the beginning of his/her scheduled teaching on the following day. It is understood that an employee may voluntarily agree to teach other than as set out above.

- 18.10 The Dean or designate, shall, with consultation and due notice, assign teaching duties to individual employees in the light of the individual's discipline and specialties, and consistent with the normal teaching load, and its equitable (i.e., fair) distribution among members of the Faculty. Teaching duties shall include, but not be limited to, advising students and prospective students, and conducting scheduled classes. Adherence to the normal teaching load shall encompass necessary minor year-to-year fluctuations in an individual's teaching load, these fluctuations balancing out over time. An individual may, also, with the agreement of the Dean or designate, undertake more than a normal teaching load.
- 18.11 In exceptional cases, the Dean or designate may increase or reduce the teaching load or service commitments of an individual employee in the light of the individual's research/scholarly/creative and service contributions. Any increase in the teaching load or service commitments of an individual employee shall be based on the individual's research/scholarly/creative and service contributions. The reasons for any variations in the normal teaching or service load, and the exceptional circumstances thereof, shall be communicated in writing to the employee so affected, with a copy to the Association, and the decision shall be subject to the grievance and arbitration procedures established by this collective agreement, for the purpose of determining whether such a variation was justified.
- 18.12 In the case of an increase in the teaching or service load without the consent of the individual, the individual shall be given reasonable notice in writing of the increase. Exceptional increases shall not be assigned in the sabbatical year or the year following sabbatical leave.
- 18.13 The teaching load of each employee shall be made available annually to all employees by 15 March of the academic year in which the teaching loads are applicable. The annual report shall list employees alphabetically with the courses each employee has taught or is teaching in the

year covered by the report. An explanatory note shall be provided in the case of employees whose teaching load varies from the normal teaching load.

- 18.14 An increase in the normal teaching load of the Faculty by the Employer shall be made with the agreement of the Parties.

### **Graduate Supervision**

- 18.15 Employees shall receive credit for the completed principal supervision of graduated graduate students on the basis of one half hour of credit per term for each candidate supervised, to a maximum of one hour for each L.L.M. (thesis) candidate, and a maximum of one and a half credit hours for each Doctoral candidate. It is understood that Employees will use accumulated graduate supervision credit in the form of course release at the earliest reasonable opportunity subject to academic planning.

### **Length of the Academic Year**

- 18.16 The nature of the University's work is such that all employees share responsibility for the administration of the affairs of the Faculty and for the year-round supervision of students. Thus all employees not formally granted leave may be required to assist in the carrying out of the affairs, responsibilities, and academic obligations of the Faculty throughout the calendar year.
- (a) In order to ensure the orderly carrying-out of an employee's duties and Faculty responsibilities, Employees with administrative responsibilities shall inform the Dean or designate of their planned summer schedule, indicating the anticipated vacation period. Employees without administrative responsibilities shall provide this information on request of the Dean or designate. Assignment of summer duties shall be equitably shared among members of the Faculty.
  - (b) Employees appointed to administrative duties shall inform the Dean or designate or the Vice-President Academic and Provost, in advance of any planned absences from campus, including vacation, and shall schedule such absences so as to ensure that their administrative responsibilities are performed in a manner satisfactory to the Dean or designate or Vice-President.

### Reduced Load

- 18.17 Employees may apply to the Dean or designate for a reduced load for a specified period of time. If such a reduction is granted, such employees shall be designated as “full-time; reduced-load” and shall remain members of the bargaining unit. Salary and the Employer’s contribution to salary-based fringe benefits will normally be reduced in proportion to the workload reduction, as will the credited years of service toward sabbatical leave and consideration for tenure.

Where an application for reduced-load status of up to and including one-third of normal load is denied, the Dean shall set out in a written reply to the employee the reasons for the denial.

- 18.18 An employee granted “full-time; reduced-load” status may, at his/her own expense, maintain his/her salary-based fringe benefits on a full-rate basis. Employees applying for such status may also apply for a continuation of the Employer’s contribution to salary-based fringe benefits on a full-rate basis, and the Employer may approve same, depending upon the nature of the reduction in load and the Employer’s judgement as to the degree to which it is in the interests of the University as well as the employee.

Note: Employees eligible for Reduced-Load under clause 15.07 shall be treated according to the terms of that clause.

### Working Environment

- 18.19 The Employer recognizes its responsibility to provide an adequate level of facilities and services in support of the work of employees, including provision of reasonable office, studio, and laboratory space, telephone, secretarial, library, computing, duplicating, technical, and other support services.

The Employer recognizes a responsibility to provide sufficient facilities, supplies, and services to protect the health and safety of employees as they carry out their duties on University premises.

The Employer agrees to adhere to health and safety standards as embodied in current government legislation.

Employees who have reason to believe that a work situation is likely to endanger them have the right to



refuse unsafe work pursuant to and in accordance with the provisions of the *Occupational Health and Safety Act*.

The parties agree that the Employer shall provide, and employees shall make use of, protective equipment wherever the same is required for the safe and efficient performance of employees' duties.

#### **Office Space for Sabbaticants**

- 18.20 All reasonable efforts will be made to accommodate employees proceeding on sabbatical leave, who have given advance notice of this need, for office space on site during that sabbatical. Should the employee's normal on-site office not be available, replacement office space shall be provided but may be on a shared basis.

#### **Fines and Charges**

- 18.21 The Employer agrees to impose no fines other than for the violation of library borrowing regulations and parking regulations. The Employer agrees that no levies shall be made against the salaries of employees during the life of this Agreement without the consent of the Association.

#### **Accommodation for Persons with Disabilities**

- 18.22 The parties acknowledge their duty to accommodate persons with disabilities in the manner and to the extent required by the *Ontario Human Rights Code*. The parties agree that this means accommodating disabled employees to the point of undue hardship if such accommodation will enable the employee to perform the essential duties of his/her position. An employee with whom an accommodation is being discussed shall be informed of his or her option to have an Association representative present during any such discussions.

The document entitled "Academic Accommodation Process" shall be posted on the York University Web site. Any changes to the processes in that document shall be brought to the JOLMC for consultation prior to the implementation of the changes.

- 18.23 The inability of an employee to carry out the essential duties of a faculty member due to disability shall be treated separately from dismissal cases under Article 16. Such a person shall be subject to accommodation pursuant to and in accordance with 18.22. Where the employee cannot be accommodated pursuant to and in accordance

with 18.22 they may be granted a leave of absence due to illness or disability, not normally to exceed four (4) years, at the end of which period the Employer may terminate the employment of the employee if the employee does not return to his or her essential duties and cannot be accommodated pursuant to and in accordance with 18.22. Prior to the termination of the employee, the Employer shall communicate with the Employee in writing to advise of its intent to terminate his or her employment, with a copy to the Association. The Employer will consider any response by or on behalf of the Employee, presented in writing or orally at a meeting requested by or on behalf of the Employee, before electing to proceed with the termination of employment, on the condition that the response is presented in writing or orally at a meeting requested by or on behalf of the Employee within 21 days of the date of the notice of intent to terminate. The Employer will communicate its final decision with respect to the termination of employment to the Employee in writing, with a copy to the Association, normally no later than 30 days following receipt of the Employee's response or following the deadline for responding, if no response is received. The decision to terminate the employment of the Employee under the provisions of this article is subject to the grievance and arbitration provisions in this collective agreement.

- 18.24 The parties recognize the importance of effective academic planning in maintaining the well-being of the University. In exercising its role in the academic planning process, in particular though its decisions concerning the disposition of the University's resources, the Employer shall respect the role of Senate in academic matters. In conformity with the collegial role in academic planning, the Employer shall inform the Faculty within a reasonable period of time of any Employer proposal that would affect Osgoode and, as relevant, shall provide the Faculty with reasonable opportunity to participate in the planning process.



## ARTICLE 19

### Leaves

#### Short-Term Leave

- 19.01 Sick leave or emergency leave of a week or less may be arranged by an employee with the Dean. When advance notice is not possible, the employee should notify the Dean as soon as possible of the nature and expected duration of the absence from duties.

In granting sick leave of longer than one (1) week and up to one (1) month in duration, the Employer may require medical verification of the nature and expected duration of the illness. In exceptional cases, the Employer may, at its expense, require a second opinion from a mutually acceptable practitioner.

- 19.02 Sick leave, compassionate leave, bereavement leave, emergency leave, leave for extraordinary elder or child care, or other short-term leaves for up to one (1) month may be arranged by an employee with the Dean.

In granting sick leave of up to one (1) month in duration, the Employer may require medical verification of the nature and expected duration of the illness. In exceptional cases, the Employer may, at its expense, require a second opinion from a mutually acceptable practitioner.

Requests for leave of up to one (1) month in duration, for reasons other than illness, shall be made in writing by the employee to the Dean. The Dean shall deliver his/her reply to the request as promptly as possible, indicating in writing approval or disapproval, and setting out the reasons for any denial, which shall normally be in terms of the impact on the Faculty's teaching program and/or the employee's service commitments.

- 19.03 In the case of short-term leave for up to one (1) month in duration, for purposes of illness or medical leave or compassionate leave or bereavement leave or emergency leave, the employee on short-term leave shall continue to receive full pay and all benefits. In the case of short-term leave for

up to one (1) month in duration, for purposes other than those set out in the preceding sentence, the Employer may reduce the salary of the individual on leave, for the period of the leave, depending upon the purpose of the leave and any remuneration resulting from it.

- 19.04 The teaching/professional and service responsibilities of an employee on short-term leave of up to one (1) month will normally be assumed by his/her colleagues without additional expenses to the Employer.
- 19.05 Short-term leaves as provided for in clauses 19.01, 19.02, 19.03 and 19.04 shall not be unreasonably denied.

### **Long-Term Leave**

#### **SICK LEAVE**

- 19.06 Where an employee requests sick leave for longer than one (1) month or is absent by reason of illness for longer than one (1) month, the Employer shall grant sick leave with full pay and benefits for a period of up to fifteen (15) weeks from the beginning of his/her absence or until the University's Long-Term Disability Programme (LTDP) comes into effect, whichever occurs sooner. In granting long-term sick leave, the Employer may require medical verification of the nature and expected duration of the illness. In exceptional cases, the Employer may, at its expense, require a second opinion from a mutually acceptable practitioner. If the employee is not deemed eligible for benefits under the LTDP, the Employer may grant a leave of absence without pay, a leave at reduced salary, or continuance of full salary and benefits, for a specified period of time.

The Employer may require medical verification of the employee's fitness to resume his or her responsibilities (where appropriate, with accommodation pursuant to 18.22) and may, at its expense, require a second opinion from a mutually acceptable practitioner.

- 19.07 If an employee is absent for more than one (1) month, the Employer shall normally arrange for a substitute or shall provide appropriate remuneration or other compensation to colleagues who assume his/her duties.

#### **PREGNANCY, PRIMARY CAREGIVER, AND PARENTAL LEAVES**

- 19.08 (a) An employee shall be granted pregnancy leave with full salary and benefits for a period of up to seventeen



(17) weeks, to be taken at the discretion of the employee during the period immediately preceding and/or following the birth of her child ("pregnancy leave");

or

- (b) An employee who has the principal responsibility for the care of the child shall be granted leave with full salary and benefits for a period of up to seventeen (17) weeks, to be taken at the discretion of the employee during the period(s) immediately preceding and/or following:
  - (i) the birth of the child, or;
  - (ii) the coming of the child of less than twelve (12) years of age into the custody, care and control of a parent for the first time ("primary caregiver leave").
- (c) An employee who takes a pregnancy leave or primary caregiver leave under 19.08(a) or (b), above is entitled to a parental leave of absence for a period of up to thirty-five (35) weeks following:
  - (i) the birth of the child, or;
  - (ii) the coming of the child into the custody, care and control of a parent for the first time.

For employees who apply for Employment Insurance (EI), the Employer will supplement the EI parental leave benefits for the first ten (10) weeks of such parental leave so that the total from both sources equals 100% of the employee's normal weekly salary. The remaining twenty five (25) weeks shall be taken as a parental leave of absence without pay.

Parental leave may begin no more than thirty-five (35) weeks after the day the child is born or comes into the custody, care and control of a parent for the first time.

The parental leave of an employee who takes a pregnancy/primary caregiver leave must begin when the pregnancy/primary caregiver leave ends unless the child has not yet come into the custody, care and control of a parent for the first time.

An employee shall, if she so chooses, have the right to continue with her regular duties during pregnancy.

Should the health of the primary caregiver or child require additional time off from University duties, the

employee may apply to the Dean for a leave of absence without pay for an additional period of up to twelve (12) weeks. (See 19.14.)

Application for pregnancy leave shall be made as early as possible in advance of the expected delivery date. Application for primary caregiver leave shall be made as early as possible. The employee shall give due regard to the need of the University for early notice of a prolonged period of leave.

#### PAID PARENTAL AND UNPAID PARENTAL LEAVES

- 19.09 (a) A parent who does not qualify to receive pregnancy or primary caregiver leave under 19.08(a) or (b) above will be granted paid parental leave with full salary and benefits for a period of up to four (4) weeks, to be taken at the discretion of the employee during the period immediately preceding and/or following:
- (i) the birth of the child, or;
  - (ii) the coming of the child into the custody, care and control of a parent for the first time.
- (b) A parent who does not qualify to receive pregnancy or primary caregiver leave under 19.08(a) or (b), above is entitled to a parental leave of absence without pay for a period of up to thirty-five (35) weeks following:
- (i) the birth of the child, or;
  - (ii) the coming of the child into the custody, care and control of a parent for the first time.

Parental leave may begin no more than thirty-five (35) weeks after the day the child is born or comes into the custody, care and control of a parent for the first time.

The unpaid parental leave of an employee who takes a paid parental leave must begin when the paid parental leave ends unless the child has not yet come into the custody, care and control of a parent for the first time.

Application for paid or unpaid parental leave pursuant to 19.09(a) or (b) above shall be made as early as possible. The employee shall give due regard to the need of the University for early notice of a prolonged period of leave.

#### GENERAL

- 19.10 During parental leave, the employee shall be entitled but not required to maintain membership in any or all of the

benefits from time to time in force through the collective agreement. During an employee's parental leave, the Employer shall continue to make the Employer's contributions to the University's benefit plans unless the employee gives the Employer a written notice in advance of the leave that the employee does not intend to pay the employee's contributions, if any.

- 19.11 The teaching/professional and service responsibilities of an employee on pregnancy leave, primary caregiver leave, paid parental leave and/or unpaid parental leave of less than one (1) month shall normally be assumed by his/her colleagues without additional expense to the Employer. If any employee takes pregnancy leave, primary caregiver leave, paid parental leave and/or unpaid parental leave of longer than one (1) month, the Employer will normally arrange for a substitute or shall provide appropriate remuneration or other compensation to colleagues who assume his/her duties.
- 19.12 If both parents are employees they may share between them their paid periods of leave. As much advance notice as possible of the expected duration of each employee's leave shall be provided to the Dean.
- 19.13 An employee on pregnancy, paid parental, parental, or primary caregiver leave shall accumulate years of service credit for all relevant provisions of this collective agreement as if he/she were a full-time, on-site employee.

#### LEAVE OF ABSENCE WITHOUT PAY

- 19.14 An employee may apply in writing to the Dean or designate for leave of absence without pay at any time, and the Dean or designate shall reply in writing within thirty (30) days. Where such a request is denied, the letter from the Dean or designate shall set out the reasons for the denial.

An employee on leave of absence without pay shall be entitled but not required to maintain membership in any or all of the University's benefit plans from time to time in force. Employees applying for such leave may apply also for a continuation of the Employer's contribution to benefit plans, and the Employer may approve same, depending upon the nature of the leave and the Employer's judgement as to the degree to which the leave is in the interests of the University as well as the employee. Eligibility for participation in the spouse's/dependents' tuition waiver program will not be affected by the leave.

- 19.15 Time spent on leave of absence without pay pursuant to clause 19.14 normally carries no credit as years of service either toward eligibility for consideration for tenure or toward sabbatical leave. If the Employer approves an employee's request that a leave of absence without pay carry such credit, the terms of such credit and the applicability or otherwise of any PTR increments shall be agreed upon in writing at the time of the approval of the leave.
- 19.16 (a) Employees in the probationary classification shall not normally be granted more than two (2) years of leave of absence without pay pursuant to 19.14, during the probationary period.
- (b) Leave of absence for a period of more than three (3) years, or consecutive leaves accumulating to more than three (3) years, will not normally be approved (with the exception of political leaves, as specified in 19.20 – 19.27). Extensions of leaves of absence beyond three (3) years may be granted by the Employer in consultation with the Dean.

#### **Sickness, Pregnancy, etc. During Sabbatical Leave**

- 19.17 The parties recognize that there may be cases in which employees on sabbatical leave suffer a serious interruption of their stated programme of activities because of personal illness, disability, pregnancy, etc. In such cases, it may be appropriate for the employee to request that the sabbatical arrangements be modified or cancelled.

#### **Court Leave**

- 19.18 An employee who has been summoned to be a juror or witness by any body in Canada with the power of subpoena, shall, if his/her attendance requires him/her to be absent from his/her scheduled teaching/professional or service responsibilities, notify the Dean or designate of the summons as soon as possible after its receipt, and shall supply the Dean or designate with a copy of the summons, upon request. An employee who has complied with the foregoing shall be granted paid leave of absence during the period of service to the court or summoning body. Upon his/her return to work, the employee shall supply the Dean or designate upon request, with written confirmation of the dates of service, signed by an appropriate officer of the court or summoning body. The employee shall be entitled to retain any juror or witness fees. The teaching/professional and service responsibilities of the employee on such leave will normally be assumed by his/



her colleagues without additional expense to the Employer, except where such leave exceeds a period of one (1) month, in which case the terms of clause 19.07 shall apply.

### **Terminal Leave**

19.19 An employee denied tenure shall be offered a final 12 consecutive months of on-site employment at full salary. Such employees may, alternatively, apply for a terminal assisted leave, to take the form of either:

- (a) a twelve-month leave at 50% of base salary, or such higher rate as the Employer at its discretion may decide, or;
- (b) a six-month leave at 100% of base salary.

In the case of either form of leave, the employee shall make his/her application to the Dean within thirty (30) days of notification of the President's decision not to recommend tenure, and the Dean's reply to the application shall be made within thirty (30) days of the Dean's receipt of the application.

### **Political Leave**

19.20 To the extent permitted by law, an employee holding a probationary or tenured appointment may stand for election to any Canadian political office without prejudice to his/her University position, and in the case of federal/provincial office, shall be granted leave of absence up to one (1) month in the event that his/her teaching/professional and service responsibilities can be assumed by his/her colleagues without additional expense to the Employer. An employee elected in a federal or provincial election, who does not resign from his/her appointment at York University, shall be granted political leave.

19.21 Political leave shall be of two kinds:

- (a) full leave from University duties, at no pay;
- (b) partial reduction in University duties, at a corresponding reduction in pay.

The determination as to which kind of leave shall apply in a particular case shall lie with the Employer, following its consideration of the degree to which the individual's public responsibilities will interfere with his/her University duties. The Employer may substitute a leave

under category (a) for a leave under category (b), upon sixty (60) days' notice to the individual. The notice to the individual shall be in writing, and shall set out the reasons for the substitution.

- 19.22 An employee elected to municipal office may apply for political leave as set out in clause 19.20. The Employer also may require that an employee elected to municipal office take political leave as set out in clause 19.20, unless the employee can demonstrate that his/her public responsibilities will not interfere with his/her University duties. Such leave shall be for the term of the political office in question. The maximum length of such leave(s) shall be six (6) years, following which the individual must either resign his/her Faculty position or return to full-time duties.
- 19.23 The date upon which political leave becomes effective shall be determined mutually by the individual and the Dean or designate, but shall in no case be later than the opening date of the session of the body to which the employee has just been elected.
- 19.24 Political leave may extend for six (6) years, or two (2) terms of office, whichever period is greater. "Term of office" shall be taken to include the period between dissolution of a parliament or legislature and the subsequent election. Beyond such period of time, or if the individual ceases to hold office (office being taken to cover the period of actual office holding plus the period ending with the individual's failure to be re-elected), the individual must either resign his/her Faculty position or return to full-time duties.
- 19.25 An employee on political leave shall be entitled but not required to maintain membership in any or all of the University's benefit plans from time to time in force. Eligibility for participation in the the spouse's/dependents' tuition waiver programme will not be affected by political leave. Time spent on political leave shall carry no credit as years of service either toward eligibility for consideration for tenure or toward sabbatical leave.
- 19.26 An employee shall return from political leave at the same rank, appointment classification, and salary level (plus any intervening cross-the-board adjustments, including cost-of-living allowance and, at the discretion of the Employer, PTR or equivalent increments) as held at the time of his/her election.

- 19.27 The salary and duties of an employee returning from political leave shall commence on the first of the month next following the election in which he/she is not re-elected, unless an alternate re-commencement date has been approved by the Employer.

### **Internal Support For Teaching and Research**

#### **CONFERENCE TRAVEL**

- 19.28 The Employer agrees to provide a conference travel support fund of \$91,500 per year.

## ARTICLE 20

## Sabbatical Leave

- 20.01 The purpose of sabbatical leave is to serve the objectives of the University by affording employees a regular opportunity to maintain and enhance their academic and professional competence free from normal on-campus teaching/professional and service obligations. Sabbatical leave is intended to promote high levels of scholarly and professional activity by employees through sustained periods of concentrated study, contemplation, and creative work, and through the extension of the range of contacts of employees to other people, places, experiences, and ideas. The parties to this collective agreement acknowledge a joint responsibility to ensure the effective use of sabbatical leaves to strengthen the University in the achievement of its objectives.

**Sabbatical Leave for Employees**

- 20.02 (a) Tenured employees are entitled to one (1) full year of sabbatical leave after six (6) years of service, subject to clauses 20.05, 20.06 and 20.07, below. No more than three (3) years of credit toward a sabbatical may be accrued during a leave of absence under Article 19. Normally an employee will take sabbatical leave every seventh (7) year. However:
- (i) The employee may, with the permission of the Dean or designate, take leave before the year in which he/she would normally be entitled to take leave. Similarly, the Dean or designate may request that an individual advance his/her sabbatical leave in the interests of effective scheduling of the Faculty's course offerings. In both these cases of a sabbatical being taken earlier than in the normal year, the individual shall be entitled to take his/her next sabbatical in the seventh (7) year following the normal year.
  - (ii) The employee may, with the permission of the Dean or designate, take leave later than the year in which he/she would normally be entitled to



take leave. Similarly, the Dean or designate may require that an individual delay his/her sabbatical leave in the interests of effective scheduling of course offerings. Notice of a required delay shall be given in writing with such advance notice as practicable of the normal starting date of the leave. In both these cases of a sabbatical being taken later than in the normal year, the individual shall be entitled to take his/her next sabbatical in the seventh (7) year following the normal year.

The Dean shall establish a roster of impending sabbatical leaves so that employees are aware well in advance of the likelihood of delay, or the possibilities for advancement, of their sabbatical leaves.

- (b) In the case of employees who have not yet received a decision on tenure, but who have satisfied the years of service requirement established in 20.02(a), the Employer may, in its discretion, grant sabbatical leave as provided in this Article.

20.03 Employees appointed to York University directly from full-time faculty service at another university shall be granted credit for such service on the basis of one (1) York year of service for each two (2) years of active, unbroken, full-time faculty service since sabbatical at their previous university(ies), or if there has been no sabbatical at the previous university(ies), since the date of first full-time faculty appointment, to a maximum of three (3) York years of service. In order to provide for a smooth transition in the application of the terms of this collective agreement, the Dean may rule that the effective scheduling of course offerings renders it not feasible for all or part of such credit to be granted to advance an employee's first York sabbatical leave from its normal seventh (7) year. In such cases, the remaining credit shall be applied as years of service toward the second sabbatical leave.

20.04 The Employer shall inform prospective employees of clause 20.03 and may, at its discretion, enter into agreement with an individual employee to award York years of service credit toward a sabbatical leave in order that an employee be entitled to a sabbatical leave earlier than would normally be the case. Such agreement shall be made between the employee and the Employer in writing, and made at time of appointment of the employee to the Faculty.

- 20.05 At least fifteen (15) months before the normal starting date of his/her sabbatical leave, an employee shall indicate to the Dean his/her intent to proceed to sabbatical leave. A Dean who receives from an employee a statement of intent to proceed to sabbatical leave shall respond to the scheduling of the sabbatical leave as specified in the statement of intent within three (3) months of receipt, either agreeing to the scheduling of the sabbatical leave or denying it and stating the reasons for the denial. Failure of the Dean to respond within three (3) months shall constitute approval of the scheduling of the sabbatical leave as proposed by the employee. The statement of intent may subsequently be withdrawn by the employee with the approval of the Dean.

Failure of the employee to express an intent to proceed to sabbatical leave or to request an advancement/delay of the normal sabbatical leave at least twelve (12) months before the normal sabbatical date shall constitute waiver of the entitlement to the sabbatical leave in question. Notwithstanding the foregoing, the Dean may relieve against the consequences of such a waiver. An employee shall provide to the Dean a general statement of his/her programme of activities planned for the period of sabbatical leave. By 1 November next following his/her return from sabbatical leave, an employee shall file a report on his/her sabbatical leave with the Dean and the Office of Research Services.

- 20.06 In very exceptional and abnormal circumstances, relating only to an employee's second or subsequent sabbatical leave, the Dean may recommend to the President that sabbatical leave be denied the employee. The decision to deny a sabbatical leave shall be based on evidence pertaining to the body of an employee's performance, during and subsequent to his/her previous sabbatical leave, of those professional responsibilities directly germane to the effective use of the sabbatical leave, which establishes conclusively that the University and the individual will not benefit from his/her programme of leave in terms of the purposes of sabbatical leave as set out in 20.01, above.

When sabbatical leave is denied, within thirty (30) days of the Dean's receipt of the statement of leave programme, the employee shall be provided with a detailed written statement containing the reasons for the denial, the specific evidence on which the denial is based, and a record of the Employer's communication to the employee of dissatisfaction with his/her performance. An employee so affected shall have full access to the grievance and

arbitration procedures established by Articles 9 and 10 of this Agreement.

- 20.07 An employee proceeding to sabbatical leave shall report to the Dean or designate all non-trivial income for professional services of which receipt from sources other than York University is anticipated. Such income, to include salary, professional fees, and research stipends, together with the York sabbatical salary, shall not exceed 100% of the employee's normal professional income, plus reasonable research, travel, and associated expenses. Where such total is exceeded, the York sabbatical salary may be correspondingly reduced. Consistent with the foregoing, a sabbatical leave is not intended to allow an opportunity for an employee to assume a full-time salaried position elsewhere.

An employee wishing to do so will normally resign or make application for a leave of absence without pay. Individuals proceeding to sabbatical leave are encouraged to apply for external research assistance, and the University shall assist an employee in the classification of a portion of his/her sabbatical salary as a research grant.

- 20.08 Sabbatical leave is normally for a period of twelve (12) months and will normally begin on either 1 July or 1 January. As an alternative to a 12 month leave, an employee may apply to take his/her sabbatical leave in the form of a six-month leave at the salary support rate specified in Article 20.10, also normally beginning on either 1 July or 1 January.

#### **Conditions Applicable to All Sabbatical Leaves**

- 20.09 The parties agree that it would be most unusual, and except under very unusual circumstances (e.g., when the employee is approaching retirement, or as part of an agreed voluntary separation arrangement), improper, for an employee not to return to York University for at least one (1) year of service following a period of sabbatical leave.

#### **Salary Support Rates**

- 20.10 Sabbatical leave salary support shall be at the rate of:

##### *Six-Month Leaves*

- (a) 100% of academic base salary for six-month leaves.

*Twelve-Month Leaves*

- (b) (i) **FIRST SABBATICALS:** For all employees who are taking their first sabbatical leave (i.e., first sabbatical leave from York or elsewhere), sabbatical salary shall be as follows:
- (A) where the employee's salary in the year prior to the sabbatical year is at or below the average bargaining unit salary in that year, the sabbatical salary shall be at 100% of academic base salary;
  - (B) where the employee's academic base salary in the year prior to the sabbatical year is above the average bargaining unit salary in that year, the sabbatical salary shall be the greater of:
    - (1) the rate of the average bargaining unit salary during the year before sabbatical year increased by the application of any general increments for the sabbatical year;
    - (2) 80% of the employee's salary. Effective July 1 2014 and thereafter, this figure shall be increased to 82.5%.
  - (C) The sabbatical salary level established in (A) or (B) (above), shall be reduced by the amount of any external leave salary support.
- (ii) **SECOND AND SUBSEQUENT SABBATICALS:** For second and subsequent sabbaticals, sabbatical salary support for twelve (12) month leaves shall be 80% of academic base salary, on condition that the sum of:

*Basic 80% sabbatical support*  
 +  
*Any additional sabbatical salary support*  
*from external agencies or*  
*York University Leave Fellowships*

does not exceed 100% of the employee's academic base salary. Any amount by which this total exceeds 100% shall be deducted from the Employer's sabbatical salary support component.



Effective 1 July 2014 and thereafter, sabbatical salary support for twelve (12) month leaves shall be increased from 80% to 82.5%.

For sabbaticals starting July 1, 2015 and thereafter, an employee may receive his or her reduced academic base salary in connection with a second and subsequent sabbatical in one of two ways:

- (A) 82.5% of the academic base salary during the twelve (12) month period of the sabbatical; or
- (B) 91.25% of the academic base salary during the twelve (12) month period immediately preceding the sabbatical and 91.25% of the academic base salary during the twelve (12) month period of the sabbatical.

Employees who wish to receive their reduced academic base salary in accordance with (B) above must advise the Dean in writing no later than three (3) months prior to the commencement of receipt of 91.25% of their academic base salary for the twenty-four (24) month period.

- 20.11 An employee on sabbatical leave remains a full-time employee of the University, and is entitled to all usual fringe benefits and benefits which he/she would participate in if present in the Faculty. Employees on sabbatical leave shall receive all salary increases on the same basis as other employees and shall be eligible for all discretionary increases.

For clarity, during sabbatical leave, benefits are affected as follows:

- (a) York Pension Plan contributions are based on actual earnings (regular and sabbatical grant). Where a sabbatical is less than 100% of nominal salary, an employee may contribute, to the York Pension Plan, the difference between the contributions at the reduced sabbatical rate and those which would be required by the employee and the Employer at normal 100% salary.

- (b) Life Insurance and Long Term Disability coverage and deductions continue to be based on the employee's full regular base salary.
- (c) Extended Health Care and Dental Plan coverage and deductions continue unaffected by a sabbatical leave.

## ARTICLE 21

## Personnel Files

- 21.01 Documents and materials used by the Employer in the professional assessment of an employee, except for documents and materials prepared for and used in the process of consideration for promotion or the granting of tenure, shall be placed in one (1) of the employee's official personnel files. Official personnel files shall be kept only in the office of the Dean, the Department of Human Resources, and the Office of the President. Normally only one (1) personnel file will be kept in any one of the above offices. When more than one (1) such file is held in an office, each file in that office shall carry a note indicating the existence of the other(s).
- 21.02 Employees shall have the right, during normal business hours and on reasonable notice in writing to the head of the office in question, to examine the file held in any of the offices in 21.01, subject to the following conditions:
- (a) The employee, or his/her duly authorized representative, shall be allowed to examine his/her personnel file only in the presence of a person designated by the head of the office in question. The employee shall not be permitted to remove the file or any part thereof from the office.
  - (b) An employee shall have access to all documents and materials to be used by the Employer in making professional assessments of that employee, except for:
    - (i) documents and materials prepared for and used in the process of consideration for promotion or the granting of tenure;
    - (ii) documents and material prepared for and used in the process of consideration for awards and grants; and
    - (iii) documents and material prepared for and used in the appointment to academic-administrative,

or administrative, positions within the University, inside or outside the bargaining unit.

- 21.03 (a) No anonymous material other than aggregated statistical information recorded in student evaluations shall be kept concerning any employee. (The raw data [e.g., questionnaires] from which this aggregate statistical information has been developed must be kept until the employee has had the opportunity to confirm the accuracy of these statistical aggregates.)
- (b) Other than as set out in clause 21.03(a) above no anonymous material shall be used in any process covered by the terms of this collective agreement and, if introduced, such evidence shall be sufficient in and of itself to invalidate the proceedings.
- 21.04 An employee shall have the right to have included in his/her file(s), his/her written comments on the accuracy or the meaning of any of the contents of the portion of his/her file(s) to which he or she has right of access as set out in clause 21.02, and to add any relevant documents to the file(s).

Material contained in the portion of an employee's file(s) to which he or she has access as set out in clause 21.02 may be removed from the file(s) only by the mutual agreement of the employee and the head of the office in question.

- 21.05 An employee may, on written request and at his/her own expense, obtain copies of the portion of his/her file(s) to which he or she has access as set out in clause 21.02.
- 21.06 Except as specified in this collective agreement, and other than the results of evaluations by students and the information in an employee's *curriculum vitae*, documents and materials used by the Employer in the professional assessment of an employee, and the documents and materials prepared for and used in the process of consideration for promotion or the granting of tenure of an employee, shall not be made available to third parties except in the performance of their duties under this collective agreement and related University documents and policies, or except at the request of the employee.
- 21.07 The Employer shall be entitled to use in the course of its normal academic business data contained in the *curricula vitarum* of employees. Employees shall, at the request of the Dean or designate, update and provide to the Dean

or designate annually their *curricula vitarum*, which shall include a statement of current research interests. The failure to do so by 1 May in a given academic year may result in the withholding of the Progress-through-the-Ranks increment under 24.04 until such time as an updated *ccurriculum vitae* is submitted.



## ARTICLE 22

## Intellectual Property

## Definitions

The following terms shall have the following meanings for the purposes of this Article 22:

**“Administrative Material”** means, in respect of any given employee, assessments, grading, reports, or correspondence (a) generated in the course of such employee’s normal administrative, teaching and service responsibilities, or (b) generated by such employee to assist in or to further the administration, operation, or management of the University.

**“Covered Intellectual Property”** means, in respect of any given employee, all Intellectual Property conceived, discovered, created, invented, authored, developed, or otherwise generated by such employee in the course of his or her employment or by using University facilities, resources, or staff, together with all Intellectual Property Rights related or otherwise associated therewith.

**“Direct Support”** means any contribution by the University towards the generation of Intellectual Property or Intellectual Property Rights in excess of Ordinary Support, including, without limitation: (a) University funds, personnel, equipment, supplies, or facilities in excess of Ordinary Support; (b) time an employee is released from other regularly assigned duties or obligations; (c) the assumption of liability by the University; (d) additional remuneration in excess of an employee’s regular salary, stipends, allowances, and benefits; and (e) any contribution provided by the University pursuant to an agreement specifying such contribution as constituting Direct Support.

**“Intellectual Property”** means any property, tangible or intangible, that may be subject to Intellectual Property Rights, including, without limitation and to the extent permitted by law, lecture courses and videos thereof, works, biological material, course material, books, manuals, recordings, ideas, formulae, algorithms, concepts, techniques, processes, procedures, approaches, methodologies, plans, systems, research, information, documentation, data, data compilations, specifications, requirements, designs, diagrams, programs, inventions, technologies, software (including

computer programs in source and object form), tools, products knowledge, know-how, including without limitation, trade secrets, and other materials or things.

**“Intellectual Property Rights”** means any and all rights provided under (i) patent law; (ii) copyright law; (iii) trade-mark law; (iv) design patent or industrial design law; (v) semiconductor chip, integrated circuit layout, or mask work law; (vi) trade secret law and laws protecting confidential information; (vii) plant breeder rights law; and (viii) any other statutory provision or common law or equitable or other principle which may provide a right in intellectual property or the expression or use of intellectual property, but excluding, for greater certainty, any and all rights provided under privacy law.

**“Ordinary Support”** means the provision of an employee’s regular salary, stipends, allowances, and benefits, and the ordinary use of a normal academic environment comprising access to personnel, equipment, supplies, and facilities funded by regular Faculty operating budgets, as well as University libraries and computing facilities.

**“Proceeds”** means the revenue or other consideration from the sale, leasing, licensing, commercialization, or any other exploitation of any Intellectual Property or Intellectual Property Rights in Supported Intellectual Property.

**“Scholarly Works”** means academic and scholarly articles, publications, texts, and other works of authorship.

**“Supported Intellectual Property”** means, in respect of any given employee, such employee’s Covered Intellectual Property generated, in whole or in part, with Direct Support.

**“Use” or “use”** means in relation to any Intellectual Property to use, copy, adapt, or exercise any other Intellectual Property Rights in the Intellectual Property.

## Ownership

- 22.02 (1) Subject to any other agreement to the contrary, Covered Intellectual Property shall be owned by the employees.
- (2) The University and employees will enter into agreements affecting the ownership of Covered Intellectual Property where:
  - (a) Covered Intellectual Property is commissioned by the University;

- (b) Covered Intellectual Property relates to work editing a journal published by the University.

### Grant of License

22.03 Each employee hereby grants to the University a non-exclusive, royalty-free, perpetual, irrevocable, non-transferable, and sublicensable license to use his or her Administrative Material for the University's normal, non-commercial, institutional purposes. Each employee further waives, in favour of the University, his or her moral rights in such Administrative Material, including, without limitation, the rights of integrity and paternity. In respect of works derived from an employee's Administrative Material, the Employer shall seek the consent of the employee before publically attributing the authorship of such works to the employee, including in cases where such works have been altered.

### Direct Support

22.04 (1) The following provisions shall apply in respect of Supported Intellectual Property of an employee, subject to 22.04(2) below:

- (a) the Supported Intellectual Property shall be owned by the employee;
- (b) the employee shall disclose the Supported Intellectual Property to the University (Notwithstanding this paragraph, supported scholarly works shall be disclosed in accordance with 21.07);
- (c) until the cost of the Direct Support has been paid to the University, the University shall be entitled to receive seventy-five (75) percent of the Proceeds of any exploitation of the Supported Intellectual Property (excluding scholarly works);
- (d) in addition to the Direct support, the University shall be entitled to receive ten (10) percent of the Proceeds once the Proceeds earned following repayment of the Direct Support have exceeded \$100,000 (excluding scholarly works);
- (e) as between the employee and the University and except subject to the rights of the University pursuant to 22.04(1)(c), the employee shall have control of the commercialization of such



Supported Intellectual Property, including the right not to engage in commercialization activities; and

- (f) as between the employee and the University, the employee shall control whether or not applications or registrations are sought or obtained in respect of such Supported Intellectual Property, including, without limitation, patents and patent applications.
- (2) Prior to the provision of Direct Support, an employee and the University may enter into a written agreement to address at least the subject matter of Article 22.04(1). For greater certainty, such written agreement may vary and supersede, in any and all respects, the terms of 22.04(1).

### **Commercialization**

- 22.05 (1) Where an employee desires to collaborate with the University to commercialize Covered Intellectual Property, the parties shall enter into a written agreement. For greater certainty, neither party is obligated to enter into such agreement. Such agreements may vary and supersede the terms in this collective agreement.
- (2) Subject to any other agreement to the contrary, as between the University and any employee, and except in respect of such employee's Supported Intellectual Property, such employee shall be entitled to the Proceeds from the exploitation of such employee's Covered Intellectual Property.

### **Disclosure**

- 22.06 In addition to any other obligations of disclosure that may exist pursuant to this agreement or any other agreement, each employee shall disclose to the University his or her Covered Intellectual Property for which (a) there is an intent to explore commercialization, or there has been commercialization, or (b) applications or registrations therefor have been sought or obtained, including, without limitation, patents and patent applications, in accordance with policies published by the University from time to time. (Notwithstanding this clause, covered scholarly works shall be disclosed in accordance with 21.07.)

### **Contracting Out**

- 22.07 Notwithstanding any other provision of this collective agreement, employees and the University (and other third-parties, if applicable) may enter into agreements that relate to any Intellectual Property or Intellectual Property Rights, including, without limitation, any Covered Intellectual Property of any employee. The scope, validity, and enforceability of such agreements shall be in no way limited by the terms of this collective agreement, and may vary and supersede, in any and all respects, the terms herein, regardless of whether such terms herein explicitly contemplate such agreements. Such agreements may assign, transfer, license, or waive, any Covered Intellectual Property of any employee, and may have prospective and retroactive effect.

### **University Intellectual Property**

- 22.08 Nothing herein assigns, transfers, or licenses any Intellectual Property or Intellectual Property Rights of the University or any third parties.

## ARTICLE 23

## Lay-off for Reason of Financial Necessity

- 23.01 The parties acknowledge their joint responsibilities to work together in maintaining the University in a financially sound position. The Employer recognizes that full-time faculty members constitute the Faculty's major academic strength, and that it has a responsibility to take all reasonable measures to forestall and prevent financial circumstances that would require the lay-off of employees. Employees, in turn, have a responsibility to show reasonable flexibility in assisting the Employer to meet the changing needs of the University and its changing financial circumstances.
- 23.02 The Employer undertakes that lay-off of employees will occur only in the event of, and only to the extent required by, a *bona fide* case of financial necessity which, by its gravity and the likelihood of its long-term continuation, threatens the fulfillment of the Faculty's academic purpose and which will only be alleviated by lay-offs. Such financial necessity may result from low(er) student enrolment or other internal or external factors. A declaration of financial necessity and such lay-offs as may follow shall be subject to the procedures specified below in 23.03 to 23.23 inclusive.

### Declaration of Financial Necessity

- 23.03 These procedures shall be initiated by a report from the President to the Board of Governors and the Association, to the effect that a state of financial necessity requiring the lay-off of employees is impending.

Such a report shall be made by the President, only following consultation with the JOLMC.

- 23.04 Until the decision is made by the Board of Governors concerning whether or not a declaration of financial necessity is to be made, and until this decision has been implemented (i.e., until all the procedures up to and including 23.16 have been carried out), the President shall not, from

the date of his/her report as specified in clause 23.03, recommend any new appointments to the bargaining unit. Furthermore, during this specified time period, the Employer agrees to inform the JOLMC of any proposals for the establishment of additional Professional/Managerial or Senior Administrative Staff positions in the Faculty for either a short or a long term.

- 23.05 The Employer and the Association shall establish, within two (2) weeks of the President's report, an independent panel of three (3) members, of which the Chairperson shall be from outside the York University community. In the event that the parties cannot agree upon three (3) persons to serve on the panel, each party shall name one (1) member, and the two (2) so named shall choose a third, from outside the York University community, who shall serve as Chairperson of the panel.
- 23.06 Within two (2) weeks of its establishment, the panel shall hold its first meeting to consider the extent to which the University's financial situation requires or will require the lay-off of employees. The panel shall complete its deliberations and report its findings to the Board of Governors within sixty (60) days of being established.
- 23.07 The panel shall review the President's report and shall have access to any and all financial data relevant to the fulfillment of the Faculty's academic purpose. The Association and the Employer may make submissions. The panel may also invite and consider submissions from others whose submissions it believes may assist it in regard to clauses 23.06, 23.08 and 23.09.
- 23.08 The panel shall consider, *inter alia*:
  - (a) whether reasonable reductions have been made in areas of the Faculty's expenditures other than bargaining unit salaries, bearing in mind the primacy of the Faculty's academic purpose;
  - (b) whether appropriate advantage has been taken of the reduction of salary commitments through normal attrition;
  - (c) whether appropriate means of increasing Faculty revenue have been adequately explored;
  - (d) whether interim deficit-financing is a realistic avenue for the solution of the financial problems;

- (e) any other matter it deems relevant to its study of the Faculty's financial circumstances.
- 23.09 The panel shall report to the Board its findings as to whether the Faculty's financial circumstances constitute a problem sufficiently grave that the Faculty's fulfillment of its academic purpose may be endangered unless bargaining unit salary commitments are reduced, and, if so, shall recommend the amount of reduction in bargaining unit salary commitments that would have to be effected for alleviation of the financial problem, if other means of alleviation cannot be found. A copy of the report shall be provided to the Association.
- 23.10 Following consideration of the panel's report, the Board of Governors may act to declare the necessity of lay-offs for reason of financial necessity, and shall indicate the amount of bargaining unit salary reduction to be achieved by lay-offs.
- 23.11 The Board's declaration shall be made to the President and Association. Upon receipt of the declaration, the Association and the Employer shall enter into negotiations to determine whether the lay-offs can be avoided by altering the terms and conditions of the collective agreement. The parties shall meet within one (1) week of the declaration of the Board, and their negotiations and ratification of any changes to the collective agreement shall be concluded within thirty (30) days of the Board's declaration.

#### **Order of Lay-off**

- 23.12 The procedure for identifying employees for lay-off shall be as detailed in clause 23.13.
- 23.13 (a) **Probationary employees without tenure:**
  - (i) The order of lay-off of probationary employees without tenure shall be determined in the first instance by the date of full-time appointment to York University, those most recently appointed being the first to be laid-off.
  - (ii) When the date of full-time appointment to York University is the same for two (2) or more employees, the order of lay-off shall be determined by the date of first full-time academic appointment anywhere, those most recently appointed being the first to be laid-off.
  - (iii) When the dates specified in (i) and (ii) above are the same for two (2) or more employees, the order of

lay-off shall be determined by the date of first degree or equivalent qualification, those with the most recent first degree or equivalent qualification being the first to be laid-off.

- (iv) When the dates specified in (i), (ii), and (iii), above, are the same for two (2) or more employees, the order of lay-off shall be determined by random selection.

**(b) Employees with tenure:**

The order of lay-off of employees with tenure shall be determined in the first instance by the date of tenure at York University, those most recently granted tenure being the first to be laid-off. Thereafter, the order of lay-off shall be determined by the criteria and procedures specified in (a), above.

The parties agree that for purposes of calculating seniority, there shall be no difference between years of service in the bargaining unit and years of service in positions excluded from the bargaining unit, as per Article 1, defining the bargaining unit.

- 23.14 All funds available for appointments to the bargaining unit after existing commitments to employees who have not been laid-off have been met shall be applied to the recall of laid-off employees until such time as all laid-off employees have been provided with an opportunity to exercise their recall rights as specified in clause 23.17.

**Terms and Conditions of Lay-off**

- 23.15 The President shall write to each employee designated for lay-off, indicating his/her intention to recommend to the Board of Governors that the employee be laid off, and stating that the lay-off is for reason of financial necessity alone. The President's letter shall be delivered to the employee by registered mail with receipted delivery, to reach the employee by 31 December or 30 June, and shall serve as notice by the Employer of its intention to lay-off the employee twelve (12) months hence effective 1 January or 1 July (unless the Employer is providing salary in lieu of notice).
- 23.16 An employee who has been laid-off for reason of financial necessity shall receive:

- (a) twelve (12) months' notice as specified in clause 23.15 above, or twelve (12) months' salary in lieu of notice; plus
- (b) one (1) month's salary for each year since the employee's appointment as a full-time faculty member at York University, to a maximum of twelve (12) months' salary, subject to the following provisos:

The financial settlement pursuant to the foregoing shall be paid automatically up to a maximum of six (6) months' salary in instalments of one (1) month's salary per month following the date of lay-off.

The monthly salary shall be computed on the basis of the employee's monthly salary during his/her final year of employment. If the employee so chooses, the first six (6) months' salary shall be paid in a lump sum. Employees entitled to more than six (6) months' salary by virtue of their years of service shall receive the additional instalments to which they are entitled beginning in the seventh (7) month, only if they have not obtained alternative full-time employment.

- 23.17 Recall rights of laid-off employees shall be limited to a period of six (6) years from the date of their lay-off, as follows: for a period of three (3) years from the date of lay-off, employees shall be recalled in the reverse order of lay-off. For the fourth, fifth and sixth years, a laid-off employee shall have the right of first refusal of each and every available position in his/her field. Should more than one laid-off employee be eligible for recall in the same field, the order of recall shall be the reverse of the order of lay-off.
- 23.18 Employees to be recalled shall be notified by registered mail at their last known address. A laid-off employee shall be given two (2) months in which to decide whether he/she wishes to accept the recall, and shall be entitled to a reasonable period of time to fulfil other employment commitments before resuming his/her duties.
- 23.19 A recalled employee shall return to the seniority, tenure status, and rank from which he/she was laid-off. Years of service toward consideration for tenure and toward sabbatical leave shall be as at time of the lay-off. The salary shall be the salary at time of lay-off, increased by any applicable across-the-board or standard increments awarded during the period of lay-off.

- 23.20 For the six (6) year period during which the employee is eligible for recall, he/she shall continue to have full access to library facilities on the same basis as on-site members of the Faculty. In addition, the Faculty shall endeavour to maintain a full range of collegial contacts with laid-off employees, and to provide them with full access to computer facilities, so that laid-off employees may maintain their professional skills; and laid-off employees shall endeavour to make use of same in order to keep up with on-going work in their fields. An employee returning after three (3) years or more of lay-off may be required to affirm that such expertise has been maintained, and to submit documentation in support thereof.
- 23.21 Any laid-off employee and his/her spouse and/or dependants eligible for tuition waiver at the time of lay-off shall continue to be so eligible during the period of lay-off.
- 23.22 A laid-off employee shall, until termination of laid-off status, be entitled but not required to maintain, at his/her own expense, membership in any or all of the University's benefit plans from time to time in force. Laid-off employees shall also be entitled to participate in the University's Group Life Insurance coverage, and to maintain membership in the University Dental Plan on the same basis as on-site employees, until the termination of laid-off status.
- 23.23 Termination of laid-off status shall occur:
- (a) six (6) years following the date of lay-off, if the employee is not recalled;
  - (b) when the employee is recalled;
  - (c) when the employee indicates in writing to the Employer that he/she no longer wishes to retain his/her recall rights, or when the employee does not accept a recall.



## ARTICLE 24

# Compensation

### Salary Floors

- 24.01 The salary floor for employees in the bargaining unit shall be \$100,000 and no one shall be paid beneath that salary floor.

### Base Salary Adjustments

- 24.02 On the effective date, the previous year's base salaries for all employees who were employed on the effective date shall be increased by the following adjustments:
- (a) Effective date of ratification: Base salary increase of 2%.
  - (b) Effective 1 July 2013: Base salary increase of 2%.
  - (c) Effective 1 July 2014: Base salary increase of 2%.

### Progress-Through-The Ranks (PTR)

- 24.03 The purpose of PTR is the recognition, on an annual basis, of an employee's academic/professional development and improvement. Embodied in the concept of PTR is the notion of a structured career development plan in which employees move steadily towards their retirement salary.
- 24.04 The PTR rate effective 1 July, 2012 shall be \$3095. For all eligible tenured employees, a portion of the annual PTR increment, as specified in 24.06 and 24.07, shall be subject to a merit assessment.
- 24.05 The previous year's academic base salaries, as adjusted by the base salary increments in 24.02, of all otherwise eligible probationary or tenured employees employed as of 1 July of the current year shall be increased by the PTR increment referred to in 24.04 effective date of ratification, 1 July 2013 and 1 July 2014.

## Merit

### MERIT PORTION OF PTR

- 24.06 The portion of the annual PTR increment that is subject to a merit assessment for tenured employees is \$1,500.

### MERIT ASSESSMENT

- 24.07 Decisions on merit increases, if any, for all eligible employees will be made by the Dean. An Advisory Committee will be established comprised of three employees elected through a collegial process and an Associate Dean appointed by the Dean. The Advisory Committee will provide recommendations to the Dean on merit increases.

Merit will be assessed in the three categories of Professional Responsibility recognized by the University, i.e. Research, Teaching, and Service. It is intended that the Dean and the Advisory Committee shall exercise a fairly wide discretion in the assessment of merit, for example there will be no set formula or points system. The Dean and the Advisory Committee may consider exceptional academic merit prior to the appointment at Osgoode, where such consideration would improve or sustain an employee's rating.

The Dean and the Advisory Committee will prepare a list of factors under each category which may be considered in the assessment of merit, to assist employees in the preparation of information for consideration by the Advisory Committee and the Dean. The list will not be exhaustive.

Merit in each of the three categories will be assessed according to three rankings:

- i. Does not qualify for a merit award;
- ii. Qualifies for a merit award; and
- iii. Exceeds expectations for a merit award.

The Dean will provide a letter to each employee eligible for merit which will include the merit award, if any, and a summary of the assessment.

In any case where the Dean declines the advice of the Advisory Committee, the Dean's letter to the employee so affected shall set out the rationale.

Individual merit decisions are reviewable at the request of the employee. Such review shall be conducted by the Vice-President Academic and Provost. A request for review shall be made in writing, copied to the Dean, who shall have a right to reply in writing, copied to the employee. The parties agree that an arbitrator will have no jurisdiction to modify or alter the decision of the Dean and/or the Vice-President Academic and Provost concerning merit awards.

The parties confirm the University and Faculty's commitment to equity principles in the determination of compensation for employees. The Dean shall report annually to the OHFA Executive on the aggregate results of the merit exercise according to gender, and for visible minorities.

It is agreed that there will be no minimum or maximum number of awards in any of the categories.

#### **Professional Expenses Reimbursement**

- 24.08 An employee is entitled to a professional expense reimbursement in the amount of \$1450 for the period July 1, 2012 to June 30, 2013, \$1550 for the period July 1, 2013 to June 30, 2014 and \$1650 for the period July 1, 2014 to June 30, 2015. The Employer shall reimburse employees, up to the maximum, through the mechanism of a minor research account, for eligible expenses submitted with appropriate documentation in accordance with guidelines to be circulated annually to all employees. All materials and equipment purchases shall be the property of the University.

#### **Overload Rate**

- 24.09 The rate for overload teaching shall be \$2,000 per credit hour.

#### **Administrative Stipends**

- 24.10 Stipends and release time for academic administrative positions shall be as set out in Appendix C. Administrative stipends shall not form part of the employee's continuing base salary.

#### **Additional Compensation**

- 24.12 The Employer shall not offer and an employee shall not receive any compensation in addition to the compensation

provided for by the various clauses of this collective agreement, with the following exceptions:

- (a) The Employer may offer, and an employee may receive, on initial appointment, a base salary greater than the floor provided in 24.01.
- (b) Paragraphs 1-3 of Appendix A.

#### **Sabbatical Leave Support**

- 24.13 Sabbatical leave support shall be as set out in 20.10, except as otherwise agreed between an employee and the Employer.

## ARTICLE 25

## Employees' Benefits

- 25.01 The terms and levels of benefits in effect as of 1 July 2012 shall continue except as they are modified by this collective agreement. A statement of the terms and levels of the various benefits shall be provided by the Employer to the Association within 60 days of ratification and shall be considered to be part of this collective agreement.

### Pensions

- 25.02 The Employer agrees to continue an All-University Pension Committee representing the different groups of participants in the York Pension Plan (including pensioners and the Board of Trustees of the York Pension Plan) to discuss changes to the York Pension Plan and report back periodically to their constituencies. The Association shall be represented on this Committee.

### Insurance

#### EMPLOYER HEALTH TAX

- 25.05 The Employer shall continue to pay Employer Health Tax premiums.

#### BENEFITS PROGRAM

The Employer agrees to maintain a program of benefits at the current premium contribution levels as outlined below.

#### *Dental Plan*

- 25.06 The Employer shall contribute to the premiums for the Dental Plan in an amount equal to 100% of the premium cost for participating employees.

*Group Life Insurance*

- 25.07 The Employer shall continue to pay 100% of the premiums of the University's Group Life Insurance, as currently in force.

*Extended Health Benefits*

- 25.08 The Employer shall continue to pay 100% of the premiums on this programme.

*Vision Care*

- 25.09 The Employer agrees to maintain vision care at its current level of \$550 over the period of this collective agreement, with a \$25 deductible, for employees only, but with an option to purchase insurance coverage for dependants (including spouse) at 100% cost to the employee.

## LIABILITY INSURANCE

- 25.10 The Employer shall maintain its Liability Insurance at least at the level currently in force.

## LONG-TERM DISABILITY INSURANCE

- 25.11 The Employer shall maintain its existing Long-Term Disability Salary Continuance Insurance.

The parties agree, within six (6) months of the date of ratification of the renewal collective agreement, to discuss in the JOLMC issues concerning LTD benefits including, without limitation, whether employees should be able to access partial LTD.

**Tuition Waiver**

- 25.12 All employees shall be entitled to a tuition waiver for themselves, their spouses and their dependants for degree credit courses offered by York University at the domestic tuition rate, except for deregulated programs as follows:
- (a) the tuition waiver for deregulated undergraduate programs will be capped at the domestic rate for non-deregulated undergraduate programs; and
  - (b) the tuition waiver for deregulated graduate programs will be capped at the standard domestic deregulated rate for graduate programs, which is the rate applicable to all graduate programs with certain specified

exceptions: the MBA, IMBA, EMBA and MPA offered by the Schulich School of Business and the part-time LLM offered by Osgoode Hall Law School.

*Dependant* is defined as any person: claimed as a dependant for income tax purposes by the employee or the employee's spouse; eligible to be claimed as a dependant for York University Benefit Plan purposes; or who meets either of the above criteria as a ward of the employee as specified by the courts.

Where a child of an employee was a dependant at the time of the employee's death or retirement, that child is eligible for tuition waiver provided that the child commences and continues in a degree programme at York University prior to attaining twenty-one (21) years of age. The spouse of an employee at the time of that employee's death or retirement is eligible for tuition waiver unless the spouse remarries or becomes the common-law spouse of another.

### **Moving Expenses**

- 25.13 Moving Expenses shall be governed by "York University Relocation Expenses Procedure" as of May 2012, or as amended thereafter.



## ARTICLE 26

### Rights and Privileges of the Association

- 26.01 The Association shall have the use of the internal University postal service for Association business. External mailing costs of the Association shall be borne by the Association. The Employer shall allow the Association to use the University duplicating services, computing facilities, word processing equipment, telecommunications and audio-visual equipment on the same basis and at the same rates established by the Employer for University users. The Employer shall provide the Association with suitable meeting rooms as required, free of charge, on the same basis as other voluntary associations within the University.
- 26.02 The Employer agrees to arrange a courtesy account for the use of the Association. Charges incurred by the Association shall be debited to this account, and the Association agrees to abide by the accounting procedures laid down by the Employer and, at the request of the Employer, to pay interest on any outstanding overdrafts on the courtesy account, at the rate of interest being paid by the University at that time on its own borrowing.

#### Teaching or Research Time Relief for Service to the Association

- 26.03 The Association undertakes that its Officers and members shall organize their activities on behalf of the Association in such a manner as not to interfere with the normal performance of their teaching, professional, and other duties.
- 26.04 The Employer agrees that service to the Association by Employees is included within the definition of "service to the University" for purposes of assessing an Employee's workload and evaluating his or her performance.
- 26.05 In addition to including service to the Association in the assessment of an Employee's workload, the Employer further undertakes that a reduction in normal teaching load of four (4) credit hours per academic year will be provided to the Association for distribution in the Association's discretion among Employees (including without limitation members of the Association Executive) for





service to the Association. The Association shall notify the Dean or designate of the identities of the Employees designated to receive such teaching load reduction, and the amounts of reduction received by each, normally by May 1 of the academic year to which they relate. Undistributed teaching load reductions may not be carried forward for distribution to Employees in future years.

- 26.06 The Association shall be further entitled to purchase a reduction in the normal teaching load of an Employee, to a maximum of four (4) credit hours, at the rate of two times the prevailing per credit-hour overload rate for the period during which the reduction is taken. The Association shall inform the Employer as to its wishes in respect of this clause within 60 days of the ratification of this collective agreement for the contract year 2012-2013, by 1 July 2013 for the contract year 2013-2014 and by 1 July 2014 for the contract year 2014-2015 in order for its entitlement to be valid.

ARTICLE 27

*Amendments to the York University Act*

In the event of any formal proposal(s) being presented to the Board of Governors for revision to the *York University Act*, the Employer undertakes to provide the Association with a copy of such proposal(s) and to allow the Association an opportunity to make representations to the Board thereon, prior to the Board taking any action on such proposal(s).



## ARTICLE 28

## Copies of the Agreement

The Employer agrees to prepare and provide to each employee a copy of this collective agreement, including those Appendices that the parties agree should be distributed, and further, to provide to the Association additional copies for its own use, within sixty (60) days after the signing of this collective agreement. The costs of this initial preparation and distribution of copies of the collective agreement shall be shared equally by the Employer and the Association. Routine distribution of copies to new employees thereafter shall be at the expense of the Employer. The Employer further agrees to make an electronic copy of the collective agreement available on a web site accessible to employees.



## ARTICLE 29

## Correspondence

All correspondence between the Association and the Employer arising out of this collective agreement or incidental thereto shall pass between the President of the University or designate and the President of the Association. Where written notice is specified in this collective agreement, the University internal mail will be deemed adequate means. The addresses of the parties shall be as follows:

- (a) Executive Director, Faculty Relations, 276 York Lanes, York University; edfacrel@yorku.ca.
- (b) The Executive, Osgoode Hall Faculty Association, c/o Osgoode Hall Law School of York University, Ignat Kaneff Building, York University; ohfa.exec@gmail.com

Either party may change the address for correspondence upon written notice to the other party.



## ARTICLE 30

## Term of Agreement

- 30.01 This collective agreement shall be binding on both parties and shall be deemed to commence and remain in effect from the date of ratification to 30 June 2015.

This collective agreement shall automatically renew itself for periods of one (1) year unless either party notifies the other in writing within the period of ninety (90) days prior to any expiry date that it desires to amend or terminate this collective agreement.

- 30.02 In the event of notice being given requesting negotiations to amend the collective agreement as per 30.01, the negotiations shall commence within fifteen (15) days following receipt of such notification and thereafter both parties shall negotiate in good faith.
- 30.03 Both parties shall adhere to the terms of this collective agreement during negotiations. If, pursuant to such negotiations, agreement is not reached on the renewal or amendment of this collective agreement, or on the making of a new collective agreement prior to the current expiry date, this collective agreement shall continue in full force and effect until a new collective agreement is signed between the parties or until all conciliation proceedings prescribed under the *Ontario Labour Relations Act* have been completed, and the parties are in a position lawfully to strike and/or lockout, whichever date should first occur.

## APPENDIX A

*Special Circumstances*

1. The parties agree that any member of the bargaining unit whose formal terms of appointment in respect of salary or entitlement to leave are contrary to the provisions of Articles 19, 20, or 24 as of the ratification of the collective agreement shall be treated according to those terms of appointment, if the employee so desires.
2. The parties agree that the Employer may, at its discretion, award additional years accredited toward entitlement to sabbatical leave to individual employees in recognition of their service as academic administrators in the bargaining unit, or for service to the University in non-bargaining unit capacities. In exceptional cases, an increased level of sabbatical salary support may be used as an alternative to the award of years accredited toward entitlement to sabbatical leave.
3. The parties agree that where employees in the bargaining unit who have served in academic administrative positions excluded from the bargaining unit have entered into an agreement with the Employer with respect to leaves, special duties, or compensation that does not form part of the employee's base salary, to be effective upon their return to the bargaining unit, the terms of any such agreement shall supersede the relevant terms of this collective agreement.

## APPENDIX B

## *Long-Term Disability Insurance (Article 25.11)*

1. With respect to the Long-Term Disability Insurance coverage specified under Article 25.11 of this collective agreement, the Employer agrees to maintain a nominal or “shadow” salary for employees receiving Long-Term Disability benefits, and to make such additional contributions to the York Pension Plan in respect of that employee as are needed to bring the contributions to the Pension Plan to the level of the contributions required of the Employer and the employee for a salary at the level of the employee’s “shadow” salary. At retirement, Final Average Earnings shall be based upon the annual “shadow” salaries thus established, and the employee shall be credited for Pension Plan purposes with a full year of service for each year for which Pension Plan contributions are made on the basis of this full “shadow” salary.

Should these provisions require amendment of the York Pension Plan, the Administration agrees to recommend to the Board of Governors that the necessary amendments be made and submitted as required to the appropriate regulatory agencies for approval.

2. An employee receiving disability benefits under the terms of the Long-Term Disability Insurance Plan, whose disability payments will end at age 65, shall be paid a monthly payment by the Employer equal to the amount of his/her monthly payment from the LTDP at the time of its termination, for that period of months until he/she reaches normal pensionable age and becomes eligible to receive a pension from the York Pension Plan.
3. In paragraph (1) above, “shadow” or “nominal” salary shall mean the academic base salary of the employee at the time of proceeding to Long-Term Disability, increased annually in accordance with any base adjustments, PTR Increments in the amount of the full rate specified in Article 24.04, or other across-the-board increments agreed upon between the Employer and the Association in their periodic contract negotiations, to a maximum of the increase

in the Consumer Price Index, calculated as provided by the Pension Plan for the contract period in question. The maintenance of a “shadow” salary in this manner shall be solely for the purposes of pension calculation for persons who spend periods of time receiving payments from the Long-Term Disability coverage, and carries no implication for those other clauses of the collective agreement that deal with the matter of determining academic base salary for individuals on various other kinds of leaves.



APPENDIX C

*Academic Administrative Positions  
(Article 24.10)*

The stipend and release for academic administrative positions are as follows:

	Stipend Effective 1 July 2013	Release
1. Graduate Program Director	\$6,000	4 credit hours
2. ORU Director	\$6,000	4 credit hours
3. Director of Hennick Centre		4 credit hours
4. Institute for Feminist Legal Studies		4 credit hours

Notes:

1. The stipend and release for academic administrative positions set out above become effective on the 1 July coincident with a new or renewal appointment to a position.
2. Except in exceptional circumstances approved by the Dean, no person may receive greater teaching release credit in a given academic year than the amount of teaching release credit that reduces his or her teaching load in that academic year to 0 credit hours.
3. In a year of exceptional and extraordinary responsibilities, up to three (3) additional credit hours release may be provided with pre-approval by the Dean or designate.
4. All stipends and release time granted are subject to the reporting requirements of 8.01(b)(i).



APPENDIX D

*\$100,000 Annual Allocation*

The parties agree to meet within three (3) months of the ratification of this collective agreement to discuss possible uses of the annually allocated amount of \$100,000 originally provided under the 2009-2012 Memorandum of Agreement between the University and Association.

DATED at Toronto this 17th day of June, 2013

FOR THE UNIVERSITY

FOR THE ASSOCIATION

\_\_\_\_\_  
Per: Lorne Sossin

\_\_\_\_\_  
Per: Sonia Lawrence

\_\_\_\_\_  
Per: James Stribopoulos

\_\_\_\_\_  
Per: Eric Tucker

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Per: Phyllis Lepore Babcock

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Per: Stepan Wood

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Per: Barry Miller



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