

**Memorandum of Understanding
Between
Winthrop University and the Winthrop University Foundation, Inc.
Update for 2016**

THIS AGREEMENT, entered into as of this May 12, 2016 by and between Winthrop University and the Winthrop University Foundation.

As stated in its articles of incorporation, the Winthrop University Foundation, Inc., is designated a charitable organization under Section 501(c)(3) of the Internal Revenue Code. The Foundation was created in 1973 and collaborates with the Division of Institutional Advancement in the identification and nurturing of relationships with potential donors and other friends of Winthrop University; soliciting cash, securities, real and intellectual property, and other private resources for the support of Winthrop University; and acknowledging and stewarding such gifts in accordance with donor intent and its fiduciary responsibilities. The Foundation is dedicated to assisting the University in the building of the endowment and in addressing, through financial support, the long-term academic and other priorities of the University.

The Foundation is the principal recipient of private gifts from alumni and friends of the University. It also manages and distributes restricted and unrestricted endowment gifts, deferred gifts, and special gifts to build and maintain programs at Winthrop University, including scholarships, endowed chairs, endowed professorships, awards, faculty enrichment programs, and other educational services of the University.

Furthermore, in connection with its fund-raising and asset-management activities, the Foundation retains personnel who are experienced in planning for and managing private contributions and works with the University to assist and advise in such activities.

In consideration of the mutual commitments herein contained, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

Foundation Name, Seal, and Logotype

Consistent with its mission to help advance the plans and objectives of the University, the Foundation is granted the use of the name, *Winthrop University*; however, the Foundation will operate under its own seal and logotype and shall not use the University seal or other identifying marks in the promotion of its business and activities without the permission of Winthrop University.

Institution or System Governance

- The Board of Trustees of Winthrop University is responsible for overseeing the mission, leadership, and operations of the University.
- The Board of Trustees is responsible for setting priorities and long-term plans for Winthrop University.
- The Board of Trustees is legally responsible for the performance and oversight of all aspects of Winthrop University operations.
- The Board of Trustees is responsible for the employment, compensation, and evaluation of the University President. However, the Foundation agrees to provide supplemental compensation and benefits for the President of the University, as it may deem appropriate, upon authorization and recommendation by the Winthrop University Board of Trustees.

- Winthrop University is responsible for the employment, compensation, and evaluation of all its employees. The Winthrop University Foundation may provide input and feedback on the employment, compensation, and evaluation of Winthrop University employees who work most directly and collaboratively with the Foundation and its purposes, but Winthrop University retains responsibility for the employment, compensation, and evaluation of all its own employees.

The Foundation's Relationship to the Institution

- The Winthrop University Foundation is responsible for the performance and oversight of all aspects of its operations based on a comprehensive set of bylaws that clearly address the board's fiduciary responsibilities, including expectations of individual board members based upon ethical guidelines and policies.
- The Winthrop University Foundation is responsible for the employment, compensation, and evaluation of all its employees. Winthrop University may provide input and feedback on the employment, compensation, and evaluation of Winthrop University Foundation employees who work most directly and collaboratively with the University and its purposes. Through a mutually established position description that outlines duties and related goals, the Executive Director for the Foundation is also accountable to the President of the University. The President of Winthrop University shall provide input and feedback on the employment, compensation, and evaluation of the Winthrop University Foundation Executive Director, but the Winthrop University Foundation retains responsibility for the employment, compensation, and evaluation of all its own employees.
- Winthrop University shall receive a grant from the Winthrop University Foundation in the amount equal to a full or prorated share of the salaries of selected University positions as appropriate and as agreed upon mutually by the University, the Board of Trustees, and the Foundation.
- The Winthrop University Foundation shall designate a portion of its unrestricted funds to a discretionary fund for the President of the University and will either transfer a percentage of those funds annually to the institution in compliance with state law and university policies or reimburse appropriate presidential expenditures. All such expenditures must comply with the I.R.S. 501(c)(3) code and be consistent with the Foundation's mission. Such funds will be audited as part of the Foundation's annual independent audit.

The Institution's Relationship to the Foundation

- The Winthrop University Board of Trustees, working with the President of the University, is responsible for communicating Winthrop University priorities and long-term plans and making recommendations of funding priorities to the Foundation.
- Winthrop University recognizes that the Foundation is a private corporation with the authority to keep all records and data confidential consistent with the law.
- The Executive Director of the Foundation shall be included as a member of the University President's administrative team.
- Winthrop University shall include the Foundation as an active and prominent participant in the strategic planning for the University.
- The President of the University, the Vice President for Institutional Advancement, and the Executive Director of the Winthrop University Alumni Association and Annual Fund shall serve as non-voting, *ex-officio* members of the Foundation Board and shall assume a prominent role in fund-raising and donor stewardship activities.

- The chairperson of the Winthrop University Board of Trustees and the chairperson for the Committee on Institutional Advancement, or their designees, will serve as non-voting, *ex-officio* members of the Winthrop University Foundation Board of Directors.
- The President of the Winthrop University Foundation Board of Directors, or his/her designee, will be invited to attend the meetings of the Committee on Institutional Advancement of the Board of Trustees and provide at least an annual report on the work of the Foundation.
- Winthrop University shall provide office space for the staff of the Foundation, computer and telephone capabilities, and custodial service for those offices. The Foundation shall lease at a fee established by the Vice President for Finance and Business of Winthrop University the office, telephone and computer functions, and custodial services.
- Winthrop University shall establish and enforce policies that support Winthrop University Foundation's ability to respect the privacy and confidentiality of donor records.

Foundation Responsibilities

1. Fund-Raising

- The Winthrop University Foundation shall create an environment conducive to increasing levels of private support for the mission and priorities of Winthrop University.
- The Winthrop University Foundation, in consultation and collaboration with the President of the University and the Vice President for Institutional Advancement, is responsible for supporting the planning and execution of comprehensive fund-raising and donor-acquisition programs in support of the institution's mission. These programs include annual giving, major gifts, planned gifts, special projects, and campaigns as appropriate.
- The Winthrop University Foundation will establish, adhere to, and periodically assess its gift-management and acceptance policies. It will promptly acknowledge and issue receipts for all gifts on behalf of the Foundation and the University and provide appropriate recognition and stewardship of such gifts.
- The Executive Director will work in collaboration with the leadership of the Foundation Board, the Vice President for Institutional Advancement, and the University President to identify, cultivate, and solicit prospects for private gifts.
- The Winthrop University Foundation shall not accept grants from state or federal agencies, except in special circumstances that are approved by the Foundation Board of Directors and the governmental agency.
- The Winthrop University Foundation shall establish and enforce policies to protect donor confidentiality and rights.

2. Asset Management

- The Winthrop University Foundation will establish asset-allocation, disbursement, and spending policies that adhere to industry best practices and applicable federal and state laws including, but not limited to, the Uniform Prudent Investor Act (UPIA) and the Uniform Prudent Management of Institutional Funds Act (UPMIFA).
- The Winthrop University Foundation will receive, hold, manage, invest, and disperse contributions of cash, securities, patents, copyrights, and other forms of property, including immediately vesting gifts and deferred gifts that are contributed in the form of planned and deferred-gift instruments.
- The Winthrop University Foundation will engage an independent accounting firm annually to conduct an audit of the foundation's financial and operational records and will provide Winthrop University with a copy of the annual audited financial statements, including management letters.

3. Institutional Flexibility

- When distributing gift funds to the University, the Winthrop University Foundation will disclose any terms, conditions, or limitations imposed by donor or legal determination on the gift. Winthrop University will abide by such restrictions and provide appropriate documentation.

4. Transfer of Funds

- The Winthrop University Foundation is the primary depository of private gifts and will transfer funds to the designated entity within the institution in compliance with applicable laws, University policies, gift agreements, and Foundation policies.
- The Winthrop University Foundation's disbursements on behalf of the University must be reasonable business expenses that support the institution, are consistent with donor intent, do not conflict with the law, and are consistent with University and Foundation policies.

Foundation Funding and Administration

- In collaboration with the University's Division of Institutional Advancement, the Winthrop University Foundation is responsible for establishing a financial plan to underwrite the cost of foundation programs, operations, and services.
- The Winthrop University Foundation has the right to use a reasonable percentage of the annual unrestricted funds, assess fees for services, or impose gift allocation fees to support its operations. The use of fees and taxes shall be disclosed to donors and the University.
- The Winthrop University Foundation shall own its own computers and the records on those computers. The Foundation shall maintain, at its own expense, copies of the plans, budgets, and donor and alumni records developed in connection with the performance of its obligations.
- The Winthrop University Foundation will provide access to data and records to the University on a need-to-know basis in accordance with applicable laws, Foundation and University policies, and guidelines. The Foundation will provide copies of its annual report and other information that may be publicly released.

Terms of the Memorandum of Understanding (MOU)

This Memorandum of Understanding, made this May 12, 2016 by and between Winthrop University and the Winthrop University Foundation, Inc. (an Internal Revenue Code 501 (c)(3) nonprofit corporation), is intended to set forth policies and procedures that will contribute to the coordination of their mutual activities.

To ensure effective achievement of the items of the agreement, the University and Foundation officers and board representatives shall hold periodic meetings to foster and maintain productive relationships and to ensure open and continuing communications and alignment of priorities.

Either party may, upon 90 days prior written notice to the other, terminate this agreement.

Notwithstanding the forgoing, either party may terminate this MOU in the event the other party defaults in the performance of its obligations and fails to cure the default within a reasonable time after receiving written show-cause notice.

Should the University choose to terminate this agreement, the Foundation may require the University to pay, within 180 days of written notice, all debt incurred by the Foundation on the University's behalf including, but not limited to, lease payments, advanced funds, and funds borrowed for specific initiatives.

Should the Foundation choose to terminate this agreement the University may require the Foundation to pay debt it holds on behalf of the Foundation in like manner.

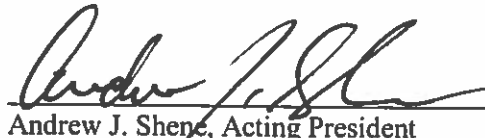
Consistent with provisions appearing in the Foundation's bylaws and its articles of incorporation, should the Foundation cease to exist or cease to be an Internal Revenue Code 501(c)(3) organization, the Foundation will transfer its assets and property to the University, to a reincorporated successor foundation, or to the state or federal government for public purposes, in accordance with the law and donor intent.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed by their duly authorized officers as of the day and date first above written.



Daniel F. Mahony, President
Winthrop University

Date: 6/9/16



Andrew J. Shene, Acting President
Winthrop University Foundation Board

Date: 5/12/16



Kathy H. Bigham, Chair
Winthrop University Board of Trustees

Date: 7-12-16



Robin A. Embry, Executive Director
Winthrop University Foundation

Date: May 13 2016