Pennsylvania State System of Higher Education
Memorandum of Understanding
Between
Edinboro University of Pennsylvania
And
Edinboro University Alumni Association

THIS MEMORANDUM OF UNDERSTANDING (MOU) is entered into this day of __________, 20__, by and between EDINBORO UNIVERSITY OF PENNSYLVANIA, part of the Pennsylvania State System of Higher Education (PASSHE), a body corporate and politic constituting a public corporation and government instrumentality of the Commonwealth of Pennsylvania, created by Act 188 of 1982, 24 P.S. §20-2001-A et seq., (hereinafter referred to as "UNIVERSITY"), and EDINBORO UNIVERSITY ALUMNI ASSOCIATION, a nonprofit tax-exempt entity organized under the laws of the Commonwealth of Pennsylvania and Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, (hereinafter referred to as "ASSOCIATION").

WITNESSETH:

WHEREAS, the ASSOCIATION was formed in 1973 is an independent nonprofit corporation existing solely for the purpose of supporting the UNIVERSITY through its relationships with alumni and friends of the University; and

WHEREAS, the purpose of the ASSOCIATION, as stated in its Articles of incorporation approved and filed in the Department of State on the 11th day of May, 1973, is to promote the general interests and welfare of Edinboro University, its alumni and friends, and the various activities of or pertaining to, these said groups of the institution, in any lawful manner; and

WHEREAS, PASSHE Board of Governors' Policy 1985-04-A: University External Financial Support stipulates that the UNIVERSITY must utilize an MOU to outline the respective roles between universities and affiliated entities.

NOW, THEREFORE, based upon the mutual promises, covenants and conditions set forth herein and intending to be legally bound, the UNIVERSITY and the ASSOCIATION agree as follows.

A. In terms of role, scope and mission, some of the major contributions of the ASSOCIATION to the UNIVERSITY have been and will continue to be:

1. STUDENT PROGRAMS: Assisting and coordinating selected student programs and services of the UNIVERSITY and the officially recognized student government association as set forth in Section 20-2010-A(3) of Act 188 of 1982, 24 P.S. Section 20-2010-A(3).

2. ALUMNI: Carrying out resource development activities related to alumni and other prospective donors.
3. FUNDRAISING:

a. Providing fundraising and development services that promote the educational purposes of the UNIVERSITY, such as the purchase of equipment and supplies for the UNIVERSITY; support for travel and in the hiring of faculty; support of research by selected faculty, staff and students; support for funding faculty chairs, student scholarships and other educational, research, cultural, scientific, public service and charitable activities; and other lawful purposes of the UNIVERSITY.

b. In conducting all fundraising, beginning on the effective date of this agreement, in accordance with University Policy No. 0005, the ASSOCIATION will collect a 5% administrative fee on all cash and unrestricted gifts of $100 or more.
   i. The fees collected will be transmitted to the University on a monthly basis on the 10th day of each month.
   ii. The fee will not apply to grants or to gifts of property or real property.
   iii. The fee will not apply to pledges made before the effective date of University Policy No. 0005, or to pledges made without notice to the donor of this fee.

c. The ASSOCIATION will provide notice of the administrative gift fee as follows:
   i. Written notice shall be provided on all ASSOCIATION fundraising materials (both documents and electronic communications);
   ii. Written notice shall be provided on all ASSOCIATION websites; and
   iii. Verbal notice shall be provided in all verbal gift solicitations.

d. The administrative gift fee may not be waived by the ASSOCIATION.

e. Within sixty (60) days of the effective date of this MOU, the ASSOCIATION shall develop a written policy for collection of the administrative gift fee, and shall provide a copy of the policy to the University. This sixty-day period shall not prevent application of the fee upon the execution of this MOU.

f. In addition to the functions previously outlined, the ASSOCIATION may operate programs and serve in matters of development, planned deferred giving, gift processing and recording, gift stewardship, donor/development records and other fundraising functions as appropriate, in consultation with the UNIVERSITY's President.

4. JOINT FUNDRAISING: In accordance with applicable statutes and Board of Governors' policies and procedures/standards, engaging either jointly or in coordination with the UNIVERSITY fundraising activities to benefit the ASSOCIATION. Such fundraising shall not be done solely through the efforts and resources of the UNIVERSITY and UNIVERSITY employees.
5. CAPITAL CAMPAIGN: Support a capital campaign to raise external funds to support the mission and activities of the UNIVERSITY, with the use of campaign proceeds and the campaign fundraising target to be determined by the UNIVERSITY, subject to provisions agreed to by the UNIVERSITY and ASSOCIATION in a separate agreement.

6. FUNDING: Reviewing funding requests and recommendations from the UNIVERSITY President and making regular allocations of available unrestricted funds to support UNIVERSITY programs and institutional advancement efforts. These activities shall be conducted with the approval of the Board of Directors of the ASSOCIATION.

7. Conducting activities to promote the educational purposes of the UNIVERSITY.

8. Conducting activities in accordance with the ASSOCIATION’s charter and by-laws.

9. Continuing to provide finance payments pursuant to the 2006 Memorandum of Understanding between the UNIVERSITY and ASSOCIATION concerning the monument of the Fighting Scot (the “2006 Monument MOU”).

B. In order to assist the ASSOCIATION in serving as a vehicle for volunteer involvement in the life of the UNIVERSITY, the following coordination and review mechanisms will be implemented.

1. The UNIVERSITY may, if desired, have a nonvoting liaison to the ASSOCIATION’s Board of Directors.

2. The UNIVERSITY’s President or designee may serve as a liaison to the governing board and/or committees of ASSOCIATION. If no services are provided pursuant to section C below, UNIVERSITY employees or officers may voluntarily provide services to an affiliated entity as an ex-officio, nonvoting member of the board of the ASSOCIATION as part of the mission of the UNIVERSITY.

3. To ensure that efficient coordination is maintained, the UNIVERSITY and the ASSOCIATION shall regularly consult on matters pertaining to the activities outlined in this MOU, development activities, etc. To ensure proper coordination is maintained, the UNIVERSITY President or designee(s) will meet at least annually with a designee(s) of the ASSOCIATION.

C. In compliance with PASSHE Board of Governors’ Policy 1985-04-A regarding fundraising and affiliated entities, it is the UNIVERSITY’s desire to enhance the ability of the ASSOCIATION to function by providing to the ASSOCIATION facilities and services as described below, at a cost to be agreed to by the parties in separate agreements, such as service purchase agreements, in accordance with applicable procurement law and regulations and requisite legal approval:

1. Communication services to include telecommunications, limited access to University databases, postage, printing, public relations and similar services.
2. Facilities to include, but not be limited to, office space, utilities, maintenance, housekeeping, lawn care, snow removal and other UNIVERSITY physical facilities for conducting ASSOCIATION functions and activities. In exchange for services and goods received by the UNIVERSITY, the ASSOCIATION will provide space for university employees without cost in the Alumni House located at 210 Meadville Street, Edinboro, PA (which is owned by the ASSOCIATION) pursuant to the terms of a lease agreement dated April 18, 2011 and effective June 14, 2011 (the “2011 Lease”).

3. Operational services to include network connectivity, ongoing maintenance and support of computer systems, mail and delivery services, and maintenance agreements to which the UNIVERSITY is a party.

D. No UNIVERSITY employee who provides support or staff services to the ASSOCIATION may serve as a voting member of the board of the ASSOCIATION, or otherwise risk adverse interest through such service. UNIVERSITY officials and employees are bound by the provisions of the Ethics Act.

E. The parties to this MOU agree and acknowledge that the names “EU” and “EDINBORO UNIVERSITY OF PENNSYLVANIA” or any facsimile or approximation thereof is the property of the UNIVERSITY and shall remain so under all circumstances and conditions. The ASSOCIATION shall not use or permit any other party to use the name “EU” or “EDINBORO UNIVERSITY OF PENNSYLVANIA” or any facsimile or approximation thereof without the express prior written approval of the UNIVERSITY and the chancellor of PASSHE.

The UNIVERSITY has provided and may in the future provide authorization for the ASSOCIATION to enter into licensing agreements or similar arrangements to generate royalty revenues or other agreed-upon benefits from the use of the UNIVERSITY name and logo.

F. The UNIVERSITY’s Council of Trustees will review this MOU annually, in conjunction with its certification of External University Financial Support.

G. As part of this MOU, the ASSOCIATION agrees to comply with the following requirements:

1. The ASSOCIATION shall be responsible for and agrees to indemnify and hold harmless the UNIVERSITY, PASSHE and the Commonwealth and its officers, employees, representatives and agents, from any and all liability, claims, demands and actions based upon and arising out of any activities performed by the ASSOCIATION under this MOU. Upon receipt of written notice of any matter for which indemnification might be claimed by the UNIVERSITY or its officers, employees, representatives and agents, the ASSOCIATION shall promptly defend, contest or otherwise protect against any such suit, action, investigation, claim or proceeding, at its own cost and expense. The UNIVERSITY may, but will not be obligated to, participate at its own expense in the proceeding, with counsel of its own choosing. Representation of the UNIVERSITY shall be in compliance with the Commonwealth Attorneys Act.
2. The ASSOCIATION shall maintain Comprehensive, Commercial/General Liability, Property Damage Insurance and Automobile Liability Insurance in such amounts that meet the prescribed minimums of, $1,000,000 for injury or death of one person in a single occurrence, $2,000,000 aggregate; for injury or death of more than one person in a single occurrence and $1,000,000 for a single occurrence of property damage. The UNIVERSITY must be listed as “additionally insured” on such policy or policies of insurance. This must all appear in the description of operational/locations/vehicles/special items section at the bottom of the Certificate of Insurance. “Additionally Insured Endorsements” also must be provided along with the Certificates of Insurance. It must be stated on the Certificate of Insurance Form that the issuing company must notify the UNIVERSITY in writing a minimum of thirty (30) days in advance if the insurance coverage is canceled or the indicated coverage limits are reduced prior to the expiration date.

3. The ASSOCIATION will carry sufficient Workers’ Compensation Insurance to cover all employees of its organization.

4. A designee of the ASSOCIATION shall meet with the UNIVERSITY Council of Trustees’ designee and UNIVERSITY President on at least an annual basis to review the performance of the ASSOCIATION’s obligations under this MOU.

5. The ASSOCIATION will provide the UNIVERSITY with an annual report summarizing the contributions and include the following items:

   a. A reconciliation of the ASSOCIATION’s revenues, expenses and financial contributions made by the ASSOCIATION to the UNIVERSITY;

   b. An annual external financial audit performed by PASSHE’s independent auditing firm or another independent external certified public accounting firm that meets minimum criteria established by the UNIVERSITY. As part of the fiscal year-end financial reporting process, the Vice Chancellor for Administration and Finance will notify the UNIVERSITY and the ASSOCIATION of the deadlines for submission of the PASSHE component unit financial reporting template (typically in mid-August), comprising the audited Balance Sheet and audited Statement of Activities; and the complete audited financial statements (typically in early September), comprising the auditor’s opinion, financial statements, and required disclosures;

   c. Certificates of Liability Insurance and Workers’ Compensation Insurance;

   d. A listing of the ASSOCIATION board of directors including indication of the officers; and

   e. Certification that the ASSOCIATION did not undertake any credit-bearing instruction, or other programs or activities that are properly part of the UNIVERSITY’s academic mission, unless expressly authorized by the UNIVERSITY President.
6. If the ASSOCIATION ceases to exist or ceases to be a recognized affiliated entity of the UNIVERSITY, the ASSOCIATION will transfer to the UNIVERSITY the ASSOCIATION’s assets, consistent with the ASSOCIATIONS’s articles of incorporation, its by-laws, state and federal law, and such restrictions as may have been imposed by donors. Upon termination of the relationship with the UNIVERSITY, the ASSOCIATION shall be prohibited from using the name, symbol, logo or trademarks of the UNIVERSITY and shall transfer all records to the UNIVERSITY.

H. The UNIVERSITY has the right to terminate this MOU as follows:

1. TERMINATION FOR CAUSE: The UNIVERSITY shall have the right to terminate the MOU for cause, including but not limited to malfeasance. Such termination for cause shall be effective 30 days from the date notice is provided in writing to the ASSOCIATION.

2. TERMINATION FOR CONVENIENCE: The UNIVERSITY shall have the right to terminate the MOU for its convenience if the UNIVERSITY determines termination to be in its best interest. Such termination for convenience shall be effective within six months from the date notice is provided in writing to the ASSOCIATION.

I. This MOU documents the relationship between the UNIVERSITY and the ASSOCIATION and represents the complete agreement between the parties, superseding any other prior or contemporaneous written or oral agreements—except for the 2006 Monument MOU and the 2011 Lease, which remain in full force and effect. Any changes, corrections or additions to this MOU shall be in writing in the form of a supplemental agreement signed by all necessary parties, including approval by PASSHE’s University Legal Counsel and the Commonwealth’s Office of Attorney General.

J. The parties to this MOU are independent contractors. The ASSOCIATION shall not enter into any transactions or agreements on behalf of the UNIVERSITY or PASSHE. Similarly, neither the UNIVERSITY nor PASSHE nor the Commonwealth shall be responsible for the payment of any debts or satisfaction of any obligations incurred by the ASSOCIATION.

K. Any notice required to be given hereunder shall be made by United States Registered Mail, return receipt requested, postage prepaid, and shall be deemed to have been received on the date noted on the receipt returned to sender. Such notice shall be addressed as follows.

   UNIVERSITY: Reeder Hall, 219 Meadville St. Edinboro, PA 16444

   ASSOCIATION: Alumni House, 210 Meadville St. Edinboro, PA 16444

L. This MOU is executed pursuant to, and shall be construed under, the laws of the Commonwealth of Pennsylvania. Should any term of this MOU be rendered unlawful by a court of competent jurisdiction or any legislative act, then the parties shall give effect to the balance of the agreement to the extent possible.

M. This MOU will commence when executed by all necessary parties on _____, 20__, and will expire on June 30, 2019.
IN WITNESS WHEREOF, this MOU has been executed and delivered as of the date set forth in the caption above.

FOR THE ASSOCIATION:

Mary Timashenka
President/Vice President of ASSOCIATION (circle one)

MARY TIMASHENKA
Printed Name

David A. Niemira
Secretary/Treasurer of ASSOCIATION (circle title)

FOR THE UNIVERSITY:

President or Designee

Julie E. Wollman, Ph.D.
Printed Name

APPROVED FOR FISCAL RESPONSIBILITY
AND AVAILABILITY OF FUNDS:

Controller

APPROVED FOR FORM AND LEGALITY:

Joseph Miller
University Legal Counsel

Deputy Attorney General

EFFECTIVE DATE

NOV 12 2014
IN WITNESS WHEREOF, this MOU has been executed and delivered as of the date set forth in the caption above.

FOR THE ASSOCIATION:

President/Vice President of ASSOCIATION (circle one)

_____________________________________________________
Printed Name

Secretary/Treasurer of ASSOCIATION (circle title)

_____________________________________________________
Printed Name

FOR THE UNIVERSITY:

President or Designee

_____________________________________________________
Printed Name

APPROVED FOR FISCAL RESPONSIBILITY AND AVAILABILITY OF FUNDS:

_____________________________________________________
Controller

APPROVED FOR FORM AND LEGALITY:

_____________________________________________________
University Legal Counsel

_____________________________________________________
Deputy Attorney General