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|  <p>The University of British Columbia<br/>Board of Governors</p>  | <p><b>Policy No.:</b></p> <p><b>16</b></p>   | <p><b>Approval Date:</b></p> <p>February 1981</p> <p><b>Last Revision:</b></p> <p>[2019]</p> |
|   | <p><b>Responsible Executives:</b><br/>Vice President, Finance and Operations<br/>Vice President, Research and Innovation</p> |  |
| <p><b>Title:</b></p> <p style="text-align: center;"><b>Ownership and Use of UBC Equipment<br/>and UBC Support Services</b></p>  |  |  |
| <p><b>Background &amp; Purposes:</b></p> <p>UBC acquires a wide range of equipment, goods and supplies for the purposes of achieving its academic mission and purposes.</p> <p>UBC also provides a wide range of support services to facilitate, administer and manage its activities.</p> <p>The purposes of this Policy are:</p> <ul style="list-style-type: none"> <li>(a) to confirm that all of UBC’s equipment is owned by UBC, and all such equipment and all of UBC’s support services are to be used primarily for the achievement of UBC’s academic mission and purposes; and</li> <li>(b) to formalize a responsible approach to the use of any excess capacity of UBC’s equipment and services in exceptional circumstances, whether for third party purposes that advance research, knowledge exchange, collaboration, innovation, and entrepreneurship, or incidental personal purposes.</li> </ul> |  |  |
| <p><b>Related Policies, Materials and Notes:</b></p> <p>Policy #87      Research<br/> Policy #97      Conflict of Interest and Conflict of Commitment<br/> Policy #107     Booking and Rental of UBC Space<br/> Policy #108     Disposal of Surplus Equipment and Materials</p>   |  |  |

*Defined terms are capitalized and can be found in Section 5 of this Policy.*

**1. Scope**

- 1.1 This Policy governs the use of UBC Equipment and UBC Support Services by all persons, regardless of their identity or their connection with UBC.
- 1.2 This Policy does not govern the booking of indoor and outdoor space, which is the subject matter of UBC Policy #107 Booking and Rental of UBC Space. However, should

a space booking or rental governed by Policy #107 be primarily for the purpose of accessing a particular piece of equipment contained in a space, this Policy and its Procedures apply together with Policy #107 and must be reflected in the rate structure and rules established by the unit responsible for administering the space, and must be reflected in any agreement entered into for the space booking.

- 1.3 This Policy does not govern the approvals for the use of UBC Equipment and Related Technical Services that are included in “Fee-for-Service Projects” entered into pursuant to Policy #87 Research.

## **2. UBC Equipment belongs to UBC**

- 2.1 All UBC Equipment belongs to UBC and is to be used primarily for the achievement of UBC’s academic mission and purposes.
- 2.2 The Equipment Administrator is primarily responsible for ensuring that the UBC Equipment and any Related Technical Services within their unit’s purview are used in accordance with this Policy.
- 2.3 Each person using UBC Equipment must comply with this Policy and is responsible to the Equipment Administrator for their use of UBC Equipment.

## **3. UBC Support Services Primarily Benefit UBC**

- 3.1 All UBC Support Services are to be provided primarily for the achievement of UBC’s academic mission and purposes.
- 3.2 Each person utilizing UBC Support Services must comply with this Policy.

## **4. Excess Capacity**

### *UBC Equipment*

- 4.1 Except in exceptional circumstances approved in advance by the Equipment Administrator in compliance with this Policy and its Procedures, the Excess Capacity of any UBC Equipment may not be used for Non-UBC Purposes.
- 4.2 The Equipment Administrator is primarily responsible for determining whether any UBC Equipment within their unit’s purview has Excess Capacity. Should there be any doubt or dispute within a unit about whether a piece of UBC Equipment has Excess Capacity, the Equipment Administrator may seek guidance from the Office of the University Counsel, and make a final determination.

### *UBC Support Services*

- 4.3 Except in exceptional circumstances approved in advance by the administrative head of unit providing the UBC Support Service in compliance with this Policy and its Procedures, the Excess Capacity of any UBC Support Service may not be used for Non-UBC Purposes.

4.4 The administrative head of unit providing the UBC Support Service is primarily responsible for determining whether the UBC Support Service has Excess Capacity. Should there be any doubt or dispute about Excess Capacity, the administrative head of unit providing the UBC Support Service may seek guidance from the Office of the UBC Counsel, and make a final determination.

## 5. **Definitions**

5.1 “**Equipment Administrator**” means, with respect of UBC Equipment utilized primarily by a faculty, the Dean of that faculty, or their delegate(s); with respect to the UBC Library, the University Librarian, or their delegate; and with respect of UBC Equipment utilized by an administrative unit of UBC, the Vice President to which that administrative unit reports, or their delegate(s). Should UBC Equipment be utilized by two or more faculties, or two or more administrative units, the relevant Deans and Vice Presidents shall jointly be the Equipment Administrator and may separately or jointly appoint delegates.

5.2 “**Excess Capacity**” is the difference between the full, useful capacity of a piece of UBC Equipment or an UBC Support Service, and the capacity of the property or service actually being utilized for UBC’s academic mission and purposes. For example, Excess Capacity may be found where a piece of UBC Equipment is needed to conduct UBC business or fulfill UBC purposes, but there are periods of time when the property is not being utilized.

5.3 “**Non-UBC Purposes**” means purposes other than those that serve UBC’s academic mission and purposes.

5.4 “**Related Technical Services**” means the services of an operator or technician, required to properly, safely and effectively operate a particular piece of UBC Equipment.

5.5 “**UBC Equipment**” means, for the purposes of this Policy, all personal property purchased, leased, created/fabricated, or otherwise acquired by UBC, whether using UBC funds including Research Funds (as defined in Policy #87, Research), whether donated or otherwise gifted to UBC, or whether created/fabricated in the course of regular duties of UBC faculty and staff. For greater certainty, in this Policy:

5.5.1 UBC Equipment includes resources such as: laboratory test and research apparatus and equipment; non-laboratory equipment such as musical instruments and audio visual equipment; office equipment and supplies (e.g. computers, servers, telephones (land and mobile), copiers/scanners, stationary etc.); vehicles (e.g. passenger cars, vans, trucks, delivery vehicles, tractors, boats, and scissor lifts); etc.; and

5.5.2 UBC Equipment excludes real property (e.g. land, buildings, etc.), and property acquired pursuant to Policy #87, Research where UBC has disclaimed ownership in accordance with that policy.

5.6 “**UBC Support Services**” mean services provided by UBC employees for the purposes of facilitating, administering and managing UBC’s academic mission and purposes, and includes, without limitation, administrative support services, building operations services, campus mail services, campus moving services, campus security, etc.

## **PROCEDURES**

**Approved: [\*2019]**

*Pursuant to Policy #1: Administration of Policies, "Procedures may be amended by the President, provided the new procedures conform to the approved policy. Such amendments are reported at the next meeting of the Board of Governors." Note: the most recent procedures may be reviewed at <http://universitycounsel.ubc.ca/policies/index/>.*

### **1. Use for Non-UBC Purposes**

1.1 Without limiting the definition of Non-UBC Purposes as set out in the Policy, Non-UBC Purposes include:

1.1.1 **"Incidental Personal Uses"**, which mean uses that primarily benefit the individual using, or directing someone else to use, the UBC Equipment or an UBC Support Service, such as use of electronic resources for personal reading and entertainment during off-hours, receiving a very small number of personal deliveries, making a very small number of copies or prints related to personal or volunteer activities, etc.; and

1.1.2 **"Third Party Uses"**, which mean uses that primarily benefit:

- (a) a faculty or staff member's commercial and non-commercial pursuits outside of their employment at UBC (i.e., which do not form a part of their job description); and
- (b) outside or third-party entities, including business organizations (e.g. corporations, partnerships etc.), associations, foundations and societies that are established as separate entities from UBC (even if UBC is a member, shareholder, etc.).

1.2 UBC Equipment and UBC Support Services may be used for Non-UBC Purposes only if they meet all the following principles as well as any regulations adopted under Sections 2.2 and 2.3 below):

1.2.1 the use must be incidental to the primary use of the UBC Equipment and UBC Support Service, meaning that the use does not interfere with the use of the UBC Equipment or performance of the UBC Support Service, for their respective primary UBC purposes;

1.2.2 the use must not result in any costs or increase in costs to UBC; and

1.2.3 all uses must be in accordance with all of UBC's policies and procedures, including (without limitation) Policy #97, Conflict of Interest and Conflict of Commitment, and in respect of use of electronic equipment, and Policy #104, Acceptable Use and Security of UBC Electronic Systems.

## **2. Incidental Personal Uses**

- 2.1 Should any person have any uncertainty, concerns, or questions regarding whether a particular activity falls within the definition of an Incidental Personal Use, they should speak with the Equipment Administrator or the administrative head of the unit providing UBC Support Services before proceeding with the activity.
- 2.2 The Equipment Administrator may adopt regulations regarding Incidental Personal Uses of any Excess Capacity of UBC Equipment of their unit, provided that the regulations are not more permissive than Section 1.2 of these Procedures. All members of the Equipment Administrator's unit must adhere to these regulations.
- 2.3 The administrative head of the unit providing UBC Support Services may adopt regulations setting out terms and conditions regarding Incidental Personal Use of any Excess Capacity of any UBC Support Service (including cost-recovery, service levels, and accommodations for departmental needs and circumstances), provided that the regulations are not more permissive than Section 1.2 of these Procedures. All persons delivering, receiving or otherwise utilizing the UBC Support Services must adhere to these regulations.

## **3. Third Party Uses**

- 3.1 The Excess Capacity of any UBC Support Service must not be used for Third Party Uses unless permitted by the Vice President, Finance and Operations, except that Related Technical Services may be provided in conjunction with the use of UBC Equipment as set out in this Section, below.
- 3.2 Except in exceptional circumstances approved in advance by the Equipment Administrator, the Excess Capacity of any UBC Equipment must not be used for Third Party Uses.
- 3.3 The Equipment Administrator is not obligated to authorize any Third Party Uses. However, should the person seeking authorization of a Third Party Use demonstrate to the satisfaction of the Equipment Administrator that the Excess Capacity of UBC Equipment is not required by others within the same unit, or other UBC units, departments or faculties, for the achievement of UBC's academic mission and purposes, and that it is otherwise appropriate for the Excess Capacity to be utilized for a Third Party Use, the Equipment Administrator may issue an authorization on the following principles:
  - 3.3.1 All other UBC faculty, departmental or unit policies, guidelines or regulations applicable to the UBC Equipment, Related Technical Services, or the use of UBC Equipment for Third Party Uses (if any) must be complied with.
  - 3.3.2 Any restrictions upon the use of the UBC Equipment (e.g. in funding agreements, funding agency policies, donor arrangements, import or purchase conditions, etc.) must be complied with.
  - 3.3.3 Appropriate safeguards must be in place to protect the UBC Equipment from misuse, damage, and theft.

- 3.3.4 UBC Equipment and Related Technical Services are not be used to perform regular, routine tests or functions in competition with the private sector, or otherwise to provide a private benefit to particular individuals or organizations.
- 3.3.5 If the person seeking to utilize the UBC Equipment and Related Technical Services (if applicable) is a UBC Person as defined in Policy #97, Conflict of Interest and Conflict of Commitment, that policy must be considered and complied with.
- 3.3.6 The Equipment Administrator must ensure that UBC is compensated for the Third Party Use of UBC Equipment and any Related Technical Services. Compensation must be reasonable, and generally ought to be market value (the highest price that two parties acting at arm's length would agree on), and achieve direct cost recovery and appropriate indirect cost recovery (alternatively referred to as "overhead").

A relevant consideration affecting the determination of the amount required for indirect cost recovery is UBC's generally applicable indirect recovery rate on industry funding, as established pursuant to Policy #87, Research.

Third Party Uses that only indirectly advance UBC's academic mission and purposes (e.g. UBC faculty, staff or student-led entrepreneurial initiatives, etc.) are not exempt from the requirement for reasonable compensation, as determined by the Equipment Administrator.

3.4 Should the Equipment Administrator authorize the Third Party Use of the Excess Capacity of UBC Equipment (with or without Related Technical Services):

- 3.4.1 The Equipment Administrator must ensure that the arrangement is formalized by way of a written agreement, which agreement must:
  - (a) detail all arrangements in respect of the UBC Equipment and any Related Technical Services, including the time period covered, insurance and transportation arrangements where applicable, liability and financial terms;
  - (b) be reviewed and approved by the Vice President, Research and Innovation, or their delegate, if the UBC Equipment in question is laboratory test or research equipment of any description; and
  - (c) be signed in accordance with the relevant UBC signing authority (which is determined with reference to the Signing Resolutions adopted by the Signing Committee of the UBC Board of Governors); and
- 3.4.2 Unless otherwise directed by the Vice President, Finance and Operations, all monies received from Third Party Uses will normally be retained, recorded, and shown in the accounts of the unit(s) responsible for the UBC Equipment and Related Technical Services.