I. Purpose

The purpose of this document is to provide guidance for the University of Colorado Boulder Campus (CU) regarding the set-up, management, indirect cost, and allocation of such indirect costs, related to External Sales and Service activities. These campus guiding principles are intended to reinforce prudent business practices to ensure good fiscal health, promote the efficient use of funding, and aid in the appropriate recognition and collection of revenue that support the campus mission and goals.

This guidance is effective as of March 1, 2015. Any External Sales and Service transactions after that date will be conducted in accordance with this guidance. Where formal agreements, with appropriate CU approval exist, such agreements will remain in effect through the end of the existing work project. Other current activities not established in compliance with these guidelines may request an exception, as defined in the procedure, to provide for a transition period.

II. External Sales and Services

These guidelines apply to External Sales of Goods and Services (or fee for service) that are provided by academic and other units for an external entity and utilize auxiliary funds (generally Fund 28 or 29). Work produced may be similar to tasks done on sponsored research projects (Fund 30) but without the scientific investigation and conclusions. The labs and personnel used are normally engaged in research, development and creative works yet have excess capacity to handle additional work for external entities. Included are:

- Internal Sales Activities where a standard rate is established and evaluated regularly (this relates to the external offering of excess capacity for such activities).
- Testing, analysis, translation, or similar service performed on behalf of an outside entity utilizing standard, pre-established methods or procedures and where each project is budgeted separately.
• Work for Hire – in rare cases, work may be performed where the customer obtains a portion of the IP rights. These should only be done after discussion with TTO and a clear understanding of background IP and future work plans.
  o CU retains full ownership of the base Intellectual Property (IP). The customer will receive the IP rights to the output created (such as the test results). Retention of the right to use data in research or publications is determined by the researcher objectives and negotiated appropriately by the CU Technology Transfer Office (TTO).

These guidelines do not apply to:

• Consulting performed under the 1/6 rule where funds do not flow through the university
• Ticket sales
• Auxiliary enterprises such as housing, bookstore, University Memorial Center (UMC) or athletics
• Conference fees, T-shirt sales or the like where specific costs are recovered

The processes and procedures related to External Sales and Service activities are defined in a procedural document under the responsibility of the CU-Boulder Controller, with support offered from the Office of Industry Collaboration.

III. Management and Reporting of External Sales & Services Activities

A. Set-up and management
External Sales activities must be established and reviewed according to the procedures established by the Campus Controller Office and the Office of Industry Collaboration. Such procedures detail the required equipment evaluations, contracting, pricing of activities, invoicing, accounting, reporting of space usage, reporting of activities, taxation considerations, and other activities required.

B. Indirect Cost (IDC) Rate for External Sales and Services
   The total Indirect Cost Rate applied to external sales and services shall be no less than the negotiated federal F&A rate applicable to the period of the activities unless an exception has been approved as provided under these guidelines. GAIR is included as part of the IDC rate.

   a. IDC Rate – External Requirements
The IDC rate for such activities is subject to the following requirements external to CU:

• Colorado Statute allows for external sales from universities provided that such external customers pay the full direct and indirect costs of such work and provided that the cost does not undercut the rate offered by commercial entities in Colorado.
• Federal government projects are entitled to the most-favorable pricing. When internal sales activities are charged to a Fund 30 project, in most cases the federally negotiated IDC rate is applied, meaning that federal projects have paid the full direct and indirect costs. Therefore, transactions not processed through Fund 30 must have at least a comparable IDC added to the price.
b. Exceptions
It is recognized that some exceptions to the IDC rate may be necessary either for a transition period for existing facilities, for start-up for new facilities, or for specific transactions of unique value. Many of these will be handled at the time the service is established. Where possible, such exceptions will be reviewed at time of set-up in accordance with established procedure. For on-going activities, the Associate Vice Chancellor for Research (AVCR) shall be responsible for approving any exceptions or may delegate such responsibility in writing. In general, the requirements for exceptions will follow the same requirements as for Sponsored Research (Fund 30) transactions. The AVCR shall track all such exceptions granted.

c. Additional Charges
In keeping with state requirements, and provided the prime customer is not the federal government, the unit must pay close attention to the competitive rates within Colorado and not undercut Colorado commercial enterprises providing similar products or services. When the prime customer for such activities is not the federal government, the university is permitted to charge a higher rate than the federal F&A rate. Doing so may provide broader support for the lab, for periods of downtime, for repair and replacement, and for support for activities not otherwise funded. The campus encourages consideration of such other needs when establishing prices. Prices charged may fluctuate based upon the circumstances. However, it is important to avoid any real or perceived conflicts of interest regarding pricing.

Many external sales activities are handled as a fixed price bid. When such is the case, the unit is highly encouraged to include a contingency prior to quoting the cost of the work.

C. Allocation of Revenue from External Sales and Services
The allocation of any revenue beyond the direct costs is set forth in Attachment A.

D. Use and Reporting of Allocation Funds
The use of the excess revenue received from External Sales and Services is intended to meet three goals:

- Provide an incentive to the researcher to conduct such work. It is understood that, particularly in the case of specialized facilities, establishing and managing these are a distraction from other research program activities. Providing a return may help the broad research program of the PI to develop in many ways not necessarily funded by other sources.
- Provide funding for the administrative costs incurred to support such activities (campus, department, and unit level).
- Provide a source of funding for research infrastructure and support that is often not provided in the current budget situation.

Further guidance on appropriate (and inappropriate) uses of such funds are provided in the procedure. In general, the intention is to provide for wise investments that have the potential to provide a return in the form of new research programs, increased competitiveness of research programs, or increased number of programs.

In order to measure the effectiveness of the use of such funds, such funds must be managed in a way that provides insight and transparency. It is expected that such funds will be managed in separate SpeedTypes and any recipients will provide reports to the Office of Industry Collaboration on at least a
quarterly basis regarding the nature of any uses of the funds and be able to describe the intention and expected or actual value received.

E. Department Responsibility
Department chairs and administrators are responsible for compliance with this policy and the related procedures. The Campus Controller’s Office and Office of Industry Collaboration are available for support and guidance.
Attachment A

Allocation of Revenue from External Sales and Services

1) Purpose and Effective Date

This attachment defines the allocation of any revenue collected above direct costs from External Sales and Service activities. This allocation is effective as of February 1, 2015. All new External Sales transactions after that date are subject to this allocation unless approved for an exemption. This allocation provides a higher level of return to both the PI, department and college. After 12-18 months, the use of such funds will be evaluated for effectiveness in encouraging and developing new sources of income, for unintended consequences, and to determine whether the allocation will continue as defined or be modified.

2) Revenue included in allocation

The amount of revenue to be allocated above the direct costs includes all of the following:

IDC – the indirect cost included in the project cost including the campus GAIR charge for expenses.

Contingency or Reserve – the budgeted amount included above the estimated costs to account for potential increases in the cost of labor, other direct costs, or unanticipated levels of effort to perform a specific task. If the contingency is not needed, the unit who would have been responsible for covering such cost overrun may retain the excess contingency up to 20% of the direct cost. Fixed price projects are highly encouraged to include a contingency.

Additional charge – any additional amounts added to avoid underpricing commercial entities or to account for the unique nature of such offerings.

Note that the direct costs may include repair and replacement and other anticipated expenses that are not subject to the split but must be set aside for the assigned purpose.

3) Allocation

The following table details the CU-Boulder percentage allocation (split) of the income subject to allocation. These splits only apply where at least the full federal IDC rate has been utilized. Where an IDC exception has been granted, the exception approval will include the new split allocation. The allocated funds will utilized as defined in the applicable procedures.
<table>
<thead>
<tr>
<th>All Non-Engineering Units</th>
<th>Engineering</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>PI / Lab</td>
<td>30%</td>
<td>n/a</td>
</tr>
<tr>
<td>College / Department</td>
<td>30%</td>
<td>60%</td>
</tr>
<tr>
<td>Campus</td>
<td>40%</td>
<td>40%</td>
</tr>
</tbody>
</table>

**College/Department allocation**

A portion of the allocation will be provided to the college and department for investment in new research facilities or opportunities. The college and department may agree to return some or all of the college/department allocation to the PI/lab. The allocation between the units and the college will be determined by the college and department and defined no later than the time of project setup. Such allocation must be communicated to the Office of Industry Collaboration as detailed in the Procedure.

**Additional allocation return for permanently staffed facilities**

Certain labs or units may make a request for a return of an additional amount of the IDC. These facilities or units have significant fixed and on-going costs (Base Costs) from either personnel or equipment support costs that must be covered regardless of the level of external activity. These facilities have significant value to the campus to merit start-up or continued investment. The personnel or equipment costs cannot be easily turned on and off without significant costs to restart the activity and are covered nearly exclusively by the income generated from the use of such facilities. These units usually have an internal service center established for activities within CU, with such rates being an average over the year, and are available to support other CU units. Examples are machine shops with skilled personnel or machines requiring continued use of gases to maintain the equipment.

The Base Costs considered in these units include the cost of maintaining a base level of operation for a lab facility in terms of key skilled personnel and operating expenses that cannot be stopped and started based upon demand. These are the costs for the time the lab is idle. This does not include all personnel or operating costs as some level of reduction may be expected when the facility is not utilized.

After the department and college have agreed that those shares of the excess revenue will be fully dedicated to such facility, an application for receipt of a portion of the campus allocation may be submitted as defined in the External Sales and Service Procedure.

**4) Exceptions**

Exceptions must be requested at the time of setup as defined in the Procedure.