



SUBJECT	Name Change and Variation of Endowment Fund: William Roy Kuzenko Memorial Endowment Fund
SUBMITTED TO	Finance Committee
MEETING DATE	March 22, 2022
SESSION CLASSIFICATION	Recommended session criteria from Board Meetings Policy: OPEN
REQUEST	APPROVAL REQUESTED IT IS HEREBY RESOLVED that the Finance Committee, in accordance with authority delegated by the Board of Governors and as recommended by the President and University Counsel, approves: <ul style="list-style-type: none"><i>i.</i> the change of the name of the “William Roy Kuzenko Memorial Endowment Fund” to the “William Roy Kuzenko and Jannette Marianne Zimmerman Memorial Endowment Fund” (the “Fund”); and,<i>ii.</i> a variation of the terms of the Fund as set out in the Testamentary Trust Summary, and attached to the briefing as Appendix 1.
LEAD EXECUTIVE	Hubert Lai Q.C., University Counsel
SUPPORTED BY	Elizabeth Moxham, Legal Counsel, Office of University Counsel Heather McCaw, Vice-President Development & Alumni Engagement

PRIOR SUBMISSIONS

The subject matter of this submission has not previously been considered by the Finance Committee.

EXECUTIVE SUMMARY

The Vice-President Development & Alumni Engagement, with the support of the representative of the estate of Ms. Zimmerman (the “**Donor**”), has requested that the Finance Committee, in accordance with authority delegated from the Board of Governors, approve the change of the name of the Fund to add the Donor’s name and to vary the terms of the Fund.

The Fund was established with a generous bequest of approximately \$570,000 from the Donor on terms set out in her Will. After her death, the University was advised by the Donor’s representative that she was unable to update her Will to reflect changes to her wishes, particularly that her name be included in the name of the Fund. In addition, the Donor had expressed a wish that the Fund be used to support bursaries, although the Will refers to scholarships.

The Faculty of Applied Science confirms that it is desirable to have the Fund support bursaries instead of scholarships. The adjudication process specified in the Will is not compliant with the University’s policies for the adjudication of bursaries, and will be removed.

Approval Requested

Accordingly, it is requested that the Board approve:

- (a) the change of the name of the Fund from “William Roy Kuzenko Memorial Endowment Fund” to the “William Roy Kuzenko and Jannette Marianne Zimmerman Memorial Endowment Fund”; and
- (b) a variation to the terms of the Fund set out in paragraph (c)(i) of the Will. Paragraph (c)(i) of the Will is reproduced below [*emphasis added to indicate language that would be varied*]

“(i) ... to the University of British Columbia (“UBC”) of Suite 500, 5950 University Boulevard, Vancouver, British Columbia, to establish a fund to be known as the William Roy Kuzenko and Jannette Marianne Zimmerman Memorial Endowment Fund (the “Fund”) the income from which is to be used to award a scholarship bursary(ies) annually to a student or students enrolled in the third or fourth year of the Faculty of Applied Science in Engineering at UBC, and who, ~~in the sole opinion of the Dean of the Faculty,~~ have demonstrated an aptitude for engineering...”

Legal Authority

The Board of Governors’ authority to approve the request is found in paragraph (c)(i)(c) of the Will, which provides that:

if for any reason the specified use of the Fund is at any time not practical or desirable, the Board of Governors of UBC may change to [sic] terms of the Fund, which changes shall, in the sole opinion of the said Board of Governors, be consistent with the general intent of this gift.

The Office of the University Counsel supports this request and the President recommends that the Finance Committee, in accordance with its authority delegated by the Board of Governors, approve the change of the name of the Fund.

APPENDICES

1. Proposed Amended Testamentary Trust Summary



**WILLIAM ROY KUZENKO AND JANNETTE MARIANNE ZIMMERMAN MEMORIAL
ENDOWMENT FUND
TESTAMENTARY TRUST SUMMARY**

Whereas: The University (defined below) received a bequest of approximately \$570,000 (the “Gift”) from Jannette Marianne Zimmerman to establish a fund to be used to support a scholarship to a student or students enrolled in the third or fourth year of the Faculty of Applied Science in Engineering. The University has been contacted by Ms. Zimmerman’s representative to request, as Ms. Zimmerman’s dying wish, that notwithstanding the specified name of the fund set out in her Will, that her name also be included in the name of the Fund (defined below). Further, the University was advised by Ms. Zimmerman’s representative that notwithstanding the reference to “scholarship” in her Will, Ms. Zimmerman wished for the fund to support bursaries. The Faculty of Applied Science has confirmed that it would be desirable to have the Fund support bursaries. Finally, the award adjudication process set out in the Will is not in accordance with the University’s policies for student awards. The Will provides the power to the Board of Governors to change the terms of the Fund. In March 2022, the Board of Governors approved a variation of the terms of the Fund on the terms set out in Section 4. This variation is consistent with the general intent of the Gift.

1. Establishment of Fund

The endowment fund described by this Testamentary Trust Summary will be known as the **William Roy Kuzenko and Jannette Marianne Zimmerman Memorial** Endowment Fund (the “Fund”).

2. Creation and Purpose of the Fund

The Fund is established by The University of British Columbia (the “**University**”) as an endowment in accordance with the terms of the Will dated **August 14, 2017** of **Jannette Marianne Zimmerman** (the “**Will**”), the relevant excerpt of which is attached to this Testamentary Trust Summary as Schedule A. This Testamentary Trust Summary has been created for administrative convenience and to evidence the creation of the Fund. It is intended to summarize the relevant terms of trust as established by the Will and not to vary those terms or to create new terms.

3. University Policy

Subject to the terms of the Will, decisions on the administration, financial and otherwise, of the Fund will be made in accordance with the terms of this Testamentary Trust Summary and the policies of the University as they may be amended from time to time.

4. Testamentary Terms Relating to Use of the Fund

The ~~University will use the Fund~~ use of the Fund was originally set out in paragraph (c)(i) of the Will. Paragraph (c)(i) was varied in accordance with the powers granted to the Board of Governors under paragraph (c)(i)(c) of the Will; and therefore the University will use the Fund for the following purpose:

SCHEDULE A
WILL EXCERPT
(See attached)

THIS IS THE LAST WILL AND TESTAMENT of me, JANNETTE MARIANNE ZIMMERMAN, presently residing at [REDACTED]

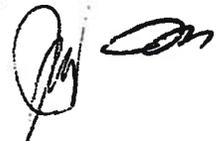
I HEREBY REVOKE all former Wills and Testamentary Dispositions of every nature and kind whatsoever heretofore made by me ***AND DECLARE*** this only to be and contain my last Will and Testament.

I DECLARE that in this Will the word "Trustee" means the Executor or Executrix or Executors and Trustee or Trustees for the time being hereof whether original, additional or substituted.

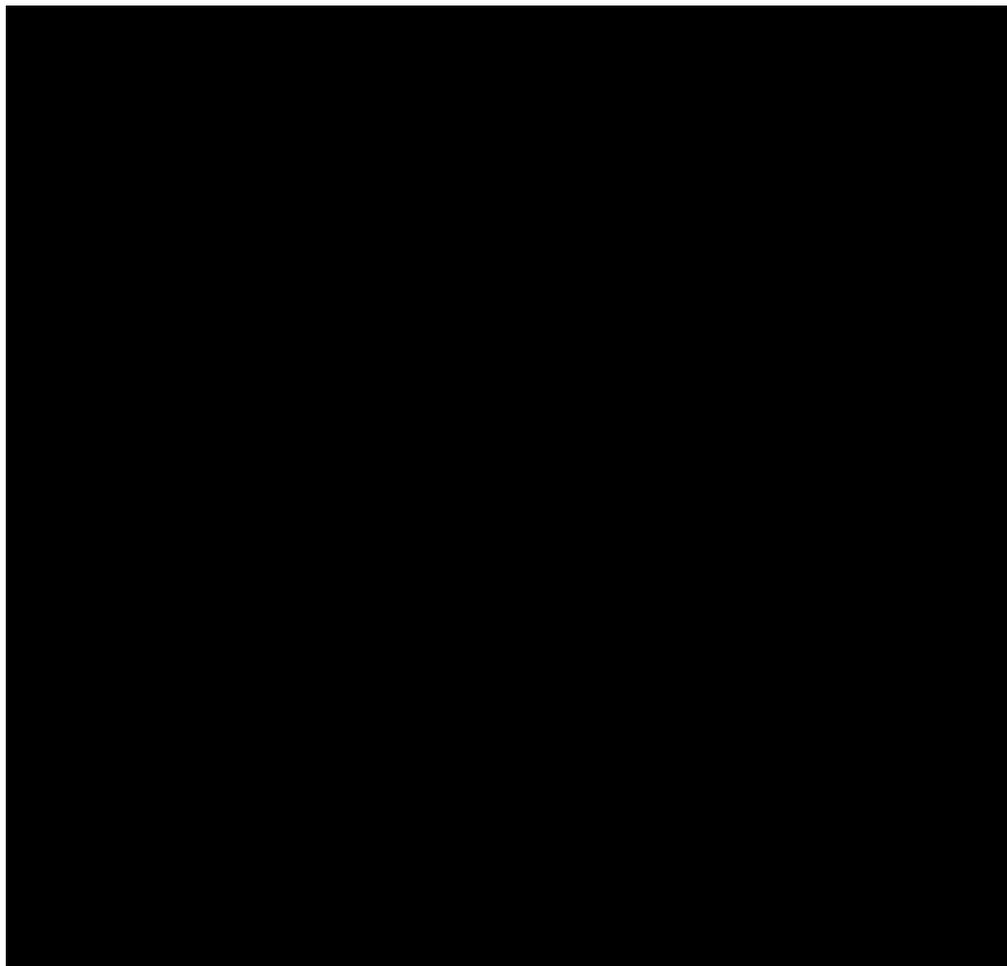
0

[REDACTED]

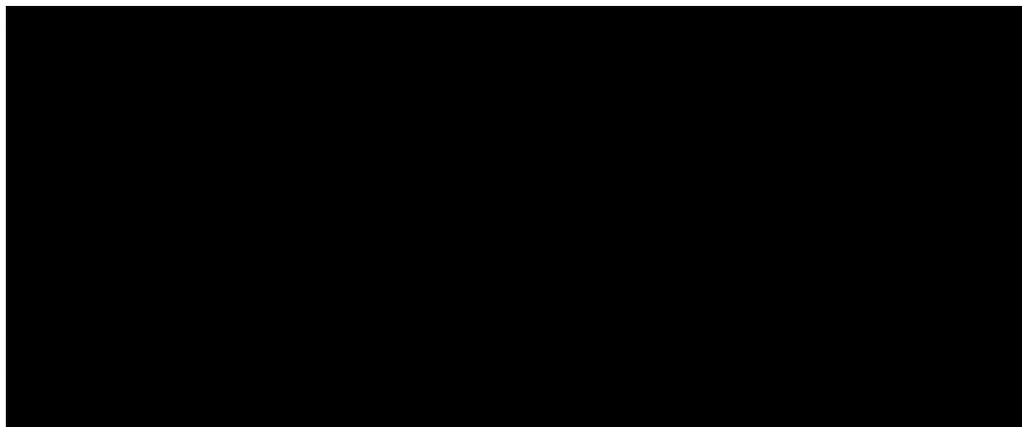
[REDACTED]



(a)



(b)



(c) To pay or transfer the remainder of my estate as follows;

- (i) Twenty (20%) percent thereof to the University of British Columbia, ("UBC") of Suite 500, 5950 University Boulevard, Vancouver, British

[Handwritten signature]

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Columbia, to establish a fund to be known as the William Roy Kuzenko Memorial Fund (the "Fund") the income from which is to be used to award a scholarship annually to a student or students enrolled in the third or fourth year of the Faculty of Applied Science in Engineering at UBC, and who, in the sole opinion of the Dean of the Faculty, have demonstrated an aptitude for engineering, and I direct that:

(a) UBC may invest the Fund in any investments it decides and is not limited to investments authorized by law for trustees;

(b) if any income of the Fund is not used in a particular year, UBC may either add the unused amount to the capital of the Fund or invest the unused amount with the intent that it and any income resulting from it retain the status of income;

(c) if for any reason the specified use of the Fund is at any time not practical or desirable, the Board of Governors of UBC may change to terms of the Fund, which changes shall, in the sole opinion of the said Board of Governors, be consistent with the general intent of this gift.

(ii)



DATED: AUGUST 14, 2017

LAST WILL AND TESTAMENT

OF

JANNETTE MARLANNE ZIMMERMAN

Prepared by:

