## EXPORT CONTROLS: (701) 231-6455

**ndsu.exportcontrols@ndsu.edu**

**Technology Control Plan (TCP)**

# NDSU’s Commitment to Export Control Compliance

North Dakota State University is committed to acting in accordance with all applicable U.S. Government export regulations. NDSU requires ALL faculty, staff, students, and other University personnel to be aware of, and comply with, U.S. export control laws and regulations, as articulated in NDSU-s Export Control Policy (722-Export Control) and procedures thereto. For more information, visit the Export Control web page <http://www.ndsu.edu/research/integrity_compliance/export_controls/> .

# What is a Technology Control plan?

A technology control plan (TCP) is used in order to secure Export Controlled information, equipment, materials, software, data, or technology from access by unlicensed and/or unauthorized foreign citizens. Before an individual has access to any Export Controlled equipment, they must know and agree to comply with security measures specified in the TCP. A signed TCP must be maintained by the Export Control Office for a period of five years.

In general, “export-controlled” means that activities, items, information, technology, and software related to the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, operation, modification, demilitarization, processing, or use of a controlled item requires an export license, or license exception, to physically export from the U.S. OR to discuss with or disclose to a person who is not a U.S. citizen or U.S. lawful permanent resident.

It is unlawful to send or take export-controlled information, technology, software, or items out of the U.S.; or disclose, orally or visually (including by email, fax, phone, etc.), or transfer to a foreign person inside or outside the U.S. without prior authorization from the cognizant U.S. Government agency. The U.S. Government can administratively and criminally punish individuals and NDSU for violating Export Control laws and regulations. Penalties could include imprisonment for up to 20 years, $1,000,000 fine per instance, and loss of import/export privileges.

Before any individual may have access to export-controlled items or technology, he or she must be informed of the conditions of the TCP and agree to comply with the security measures outlined in the TCP.

Copies of the final TCP will be held by the Export Control Administrator and the PI of the project. Federal regulations require that the TCPs be kept for a minimum of 5 years after the end date of the plan.

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| --- | --- |
| **Date** | Click or tap here to enter text. |
| **Individual Requesting TCP** | Click or tap here to enter text. |
| **Individual Responsible For TCP**(if different than above) | Click or tap here to enter text. |
| **Telephone Number** | Click or tap here to enter text. |
| **Email Address** | Click or tap here to enter text. |

# General Project Information

|  |  |  |  |
| --- | --- | --- | --- |
| **Start Date of Plan:** | Click or tap here to enter text. | **End Date of Plan:** | Click or tap here to enter text. |

**Research Project Description (Brief Overview)**

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## Building and Office Where Export Controlled Information is Located (Building, Room)

|  |
| --- |
| Click or tap here to enter text. |

|  |  |  |
| --- | --- | --- |
| Is Sponsored Research Involved? | [ ]  Yes | [ ]  No |

## If Sponsored Research is Involved, Please Identify Sponsors (include FAR00XXXXX)

|  |
| --- |
| Click or tap here to enter text. |

**EAR/ITAR Category if known - Please contact Export Control if you need assistance with classification.**

|  |
| --- |
| Click or tap here to enter text. |

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| --- | --- | --- |
| Will the project use Export Controlled Equipment? | [ ]  Yes | [ ]  No |

## If yes, list Manufacturer and Model of Equipment

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| Click or tap here to enter text. |

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| --- | --- | --- |
| Will the project use Export Controlled Technology (software)? | [ ]  Yes | [ ]  No |

**If yes, list Name and Version of Computer Program(s)**

|  |
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| Click or tap here to enter text. |

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| --- | --- | --- |
| Will the project use or generate Export Controlled data? | [ ]  Yes | [ ]  No |

**If yes, list the source of data and expected volume (MB, GB, TB)**

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| Click or tap here to enter text. |

# Project Personnel

Clearly identify every person (including their country of citizenship) who may have authorized access to the controlled technology/item/data. Attach additional sheets if necessary.

|  |  |  |  |
| --- | --- | --- | --- |
| Name |  | Citizenship | US Permanent Resident? |
| Click or tap here to enter text. |  | Click or tap here to enter text. | [ ]  Yes | [ ]  No |
| Click or tap here to enter text. |  | Click or tap here to enter text. | [ ]  Yes | [ ]  No |
| Click or tap here to enter text. |  | Click or tap here to enter text. | [ ]  Yes | [ ]  No |
| Click or tap here to enter text. |  | Click or tap here to enter text. | [ ]  Yes | [ ]  No |
| Click or tap here to enter text. |  | Click or tap here to enter text. | [ ]  Yes | [ ]  No |
| Click or tap here to enter text. |  | Click or tap here to enter text. | [ ]  Yes | [ ]  No |
| Click or tap here to enter text. |  | Click or tap here to enter text. | [ ]  Yes | [ ]  No |
| Click or tap here to enter text. |  | Click or tap here to enter text. | [ ]  Yes | [ ]  No |
| Click or tap here to enter text. |  | Click or tap here to enter text. | [ ]  Yes | [ ]  No |

**Physical Security Measures**

## Please check which physical security measures you will have in place to prevent unauthorized access to secured areas, as well as protect materials and computers.

“One Lock” is the principal of securing items and information by using at least one mechanism to prevent access by unauthorized persons. This is the minimum requirement for safeguarding the *Export Controlled equipment, technology or information* listed above.

Project personnel are responsible for safeguarding *Export Controlled equipment, technology or information* at all times by meeting the “one lock” measures identified below in the PHYSICAL SECURTIY MEASURES and INFORMATION SECURITY MEASURES below.

|  |  |  |  |
| --- | --- | --- | --- |
|  | YES | NO | Notes |
| 1. Will you have a Plan in Place to Protect Equipment?
 |[ ] [ ] [ ]
| 1. Will the project ONLY be conducted in secure area?
 |[ ] [ ] [ ]
| 1. Will Controlled Materials be Locked in Cabinet?
 |[ ] [ ] [ ]
| 1. Will Controlled Materials will be in a Locked Office
 |[ ] [ ] [ ]
| 1. Will ALL Controlled Equipment will be Clearly Marked?
 |[ ] [ ] [ ]
| 1. Will a Procedure be in Place to Ensure ONLY Project Members will have access to Secured Area?
 |[ ] [ ] [ ]
| 1. Will there be a Chain of Custody Log?
 |[ ] [ ] [ ]
| 1. Will you prevent non-U.S. Person from viewing or having access to project areas?
 |[ ] [ ] [ ]
| 1. Will you Ensure ALL Personnel are Trained in Export Controls?
 |[ ] [ ] [ ]
| 1. Will you Ensure that Personnel are Monitoring Compliance on an On-Going Basis?
 |[ ] [ ] [ ]

## Notes

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| Click or tap here to enter text. |

## Please list any additional physical security measures you will have in place to prevent unauthorized access to Export Controlled secure areas, materials, and computers.

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| Click or tap here to enter text. |

# INFORMATION SECURITY MEASURES

## Please check which information security measures you will have in place to protect Export Controlled Data.

External portable hard drives or flash drives, rather than shared central servers, are recommended for data storage provided physical storage is employed when they are not in use (see “one-lock” information under PHYSICAL SECURITY MEASURES). Drives and devices used to store *Export Controlled information* must be password protected or encrypted. For data storage on drives with network access or backup servers, the *Export Controlled information* must be secured by encryption and password protection.

Email may not be used for the transfer of Covered Items or Information subject to the ITAR or EAR. A secure file transfer method (SSH/SCP/SFTP/SSL) or mailing a disk or flash drive are preferred methods to transfer Export

Controlled information in electronic format. Note: Emailing *Export Controlled information* subject to regulations other than the EAR and ITAR will be considered on a case-by-case basis, but is NOT authorized unless specified below; when authorized to use email, the sender's is responsible for ensuring that the recipient is physically present in the US at the time of transfer.

|  |  |  |  |
| --- | --- | --- | --- |
|  | YES | NO | Notes |
| 1. Will data be encrypted?
 |[ ] [ ] [ ]
| 1. Will data be password protected?
 |[ ] [ ] [ ]
| 1. Will data be stored ONLY in a non-networked location?
 |[ ] [ ] [ ]
| 1. Will you classify which data is Export Controlled and Non-Export Controlled?
 |[ ] [ ] [ ]
| 1. Will you ensure that data is not sent over unsecured networks?
 |[ ] [ ] [ ]
| 1. Will you ensure that ONLY Project Members (identified in this TCP) have access to Export Controlled equipment, technology, computers and networks?
 |[ ] [ ] [ ]
| 1. Will you ENSURE project computers are NOT connected to a network?
 |[ ] [ ] [ ]
| 1. Will you ENSURE computers have anti-Virus protection software that is updated frequently?
 |[ ] [ ] [ ]
| 1. Will you PROHIBIIT the use of external storage devices?
 |[ ] [ ] [ ]
| 1. Will Export Controlled data be DESTROYED after the project is complete?
 |[ ] [ ] [ ]
| 1. Will Export Controlled Computers be DESTROYED or ERASED after the project is complete?
 |[ ] [ ] [ ]
| 1. Will Export Controlled external storage devices be DESTROYED or ERASED after the project is complete?
 |[ ] [ ] [ ]
| 1. Will you ensure that data is not STORED in the CLOUD?
 |[ ] [ ] [ ]

## Notes

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| Click or tap here to enter text. |

## Please list any additional information security measures you will have in place to prevent unauthorized access to Export Controlled data.

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| Click or tap here to enter text. |

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| --- | --- | --- |
| *For Export Control Administration Only* |  |  |
| Have all project personnel been screened? | [ ]  Yes | [ ]  No |
| Have any Export Control related concerns been identified related to project personnel? | [ ]  Yes | [ ]  No |
| If yes, describe: | Click or tap here to enter text. |
| Status of the TCP | [ ]  Approved | [ ]  Denied |
| Export Control Notes |  |  |
| Click or tap here to enter text. |
|  |  |  |
| Export Control Signature |  | Date |
|  |  |  |
| Export Control Printed Name |  |  |  |

# Common Export Control Definitions:

## Foreign Person:

A person who is not a U.S. citizen or lawful permanent resident alien of the U.S A person lawfully in the U.S. on a visa for work or study is a foreign person. The law makes no exceptions for foreign graduate students or visiting scientists.

## US Person:

A person who is a U.S. Citizen or lawful Permanent Resident Alien.

## Export:

## Is the transfer of items, technology, software, or technical data found on the USML or CCL out of U.S. territorial borders by any means? Exports out of the U.S. also include the electronic, visual, or verbal transmission of technical data or technology through any means, such as email, verbal discussions, or hand-carrying information on International travel.

## Deemed Export:

An Export of technology or source code (except encryption source code) is “deemed” to take place when it is released to a foreign national within the U.S. Technology is “released” for export when it is available to foreign nationals for visual inspection; when technology is exchanged orally; or when technology is made available by practice or application under the guidance of persons with knowledge of the technology.

**USE:**

Is defined as “operation, installation, maintenance, repair, overhaul and refurbishing.”

**USML:**

Identifies specially designed military technologies and systems.

**CCL:**

Identifies most other common items, materials, software, and technologies not on the USML which are in the U.S. or of U.S. origin that are also considered “dual use” in nature.

|  |  |
| --- | --- |
| Project Title: | Click or tap here to enter text. |
| PI Name: | Click or tap here to enter text. |
| Participant Name: | Click or tap here to enter text. |
| Sponsor: | Click or tap here to enter text. |

## Statement

I understand that my participation on the research project(s) listed may involve the receipt or use of export-controlled technology, items, software or technical data, and that it is unlawful to transfer, send or take export-controlled materials or technology out of the United States. Furthermore, I understand that I may not disclose, orally or visually, or transfer by any means, export-controlled technology or technical data to a non-U.S. person located inside or outside the U.S. without a license or applicable exemption as determined by NDSU’s Export Control Administrator.

The export controlled materials or technology of this project may not be exported to:

* Foreign countries and/or any foreign person, unless the University either obtains a license or determines that an exemption applies and the University informs me of the same.
* Any and all embargoed destinations designated by the Office of Foreign Assets Control
<http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>
* Anyone found on the Specially Designated Nationals (SDN) list
<http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>
* Proscribed countries or their citizens located in the United States as listed in 126.1 of the ITAR (if applicable)
<https://www.pmddtc.state.gov/regulations_laws/documents/official_itar/ITAR_Part_126.pdf>
* Any person or entity on the Denied Entity List, if EAR is applicable.
<http://www.bis.doc.gov/entities/default.htm>

The Export Control Administrator (NDSU.ExportControls@ndsu.edu or 1-6455) can assist with the screenings listed above.

## Responsibilities and Potential Penalties

Researchers may be held personally liable for civil/criminal violations of the U.S. export control regulations. The penalties for unlawful export and disclosure of export controlled information under the various export control regulations can result in civil fines in excess of $1,000,000 and criminal penalties of up to $250,000 in fines and/or up to 10 years in prison.

As a result, you should have a clear understanding of the requirements, and exercise reasonable care in using and sharing export-controlled information, technology, software, or items with others. This TCP has been developed to help you assess, address, and understand your export control obligations, as well as to control access to the export-controlled aspects of this project.

## Certification

I hereby certify that I have read and understand this Certification. I understand and agree to follow the procedures outlined in the TCP and that I could be held personally liable if I unlawfully disclose (regardless of form or format) *Export Controlled equipment, technology or information* to unauthorized persons. I agree to address any questions I have regarding the designation, protection or use of *Export Controlled equipment, technology or information* to the NDSU Export Control Administrator.

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| Printed Name |  |  |

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| Signature |  | Date |
|  |  |  |
| Printed Name |  |  |
| Project Title: | Click or tap here to enter text. |
| PI Name: | Click or tap here to enter text. |
| Participant Name: | Click or tap here to enter text. |
| Sponsor: | Click or tap here to enter text. |

## Statement

I understand that my participation on the research project(s) listed may involve the receipt or use of export-controlled technology, items, software or technical data, and that it is unlawful to transfer, send or take export-controlled materials or technology out of the United States. Furthermore, I understand that I may not disclose, orally or visually, or transfer by any means, export-controlled technology or technical data to a non-U.S. person located inside or outside the U.S. without a license or applicable exemption as determined by NDSU’s Export Control Administrator.

The export controlled materials or technology of this project may not be exported to:

* Foreign countries and/or any foreign person, unless the University either obtains a license or determines that an exemption applies and the University informs me of the same.
* Any and all embargoed destinations designated by the Office of Foreign Assets Control
<http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>
* Anyone found on the Specially Designated Nationals (SDN) list
<http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>
* Proscribed countries or their citizens located in the United States as listed in 126.1 of the ITAR (if applicable)
<https://www.pmddtc.state.gov/regulations_laws/documents/official_itar/ITAR_Part_126.pdf>
* Any person or entity on the Denied Entity List, if EAR is applicable.
<http://www.bis.doc.gov/entities/default.htm>

The Export Control Administrator (NDSU.ExportControls@ndsu.edu or 1-6455) can assist with the screenings listed above.

## Responsibilities and Potential Penalties

Researchers may be held personally liable for civil/criminal violations of the U.S. export control regulations. The penalties for unlawful export and disclosure of export controlled information under the various export control regulations can result in civil fines in excess of $1,000,000 and criminal penalties of up to $250,000 in fines and/or up to 10 years in prison.

As a result, you should have a clear understanding of the requirements, and exercise reasonable care in using and sharing export-controlled information, technology, software, or items with others. This TCP has been developed to help you assess, address, and understand your export control obligations, as well as to control access to the export-controlled aspects of this project.

## Certification

I hereby certify that I have read and understand this Certification. I understand and agree to follow the procedures outlined in the TCP and that I could be held personally liable if I unlawfully disclose (regardless of form or format) *Export Controlled equipment, technology or information* to unauthorized persons. I agree to address any questions I have regarding the designation, protection or use of *Export Controlled equipment, technology or information* to the NDSU Export Control Administrator.

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