



University of North Texas

Export Compliance Manual

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1 UNT COMMITMENT

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While University of North Texas (UNT) endorses the principles of freedom of inquiry and open exchange of knowledge, UNT recognizes and respects its obligation to compliance with the U.S. export control regulations. The export of certain technologies, software and hardware is regulated and controlled by federal law for reasons of national security, foreign policy, prevention of the spread of weapons of mass destruction and for competitive trade reasons. UNT and all its employees are required to comply with the laws and implementing regulations issued by the Department of State, through its International Traffic in Arms Regulations (ITAR), the Department of Commerce, through its Export Administration Regulations (EAR) and the Department of the Treasury, through its Office of Foreign Asset Controls (OFAC).

Although most research conducted on U.S. college and university campuses is excluded from these regulations under the Fundamental Research Exclusion, university research involving specified technologies controlled under the EAR and/or ITAR, or transactions and exchanges with designated countries, individuals and entities may require UNT to obtain prior approval from the appropriate federal agency before allowing foreign nationals to participate in controlled research, collaborate with a foreign company and/or share research, verbally or in writing, with persons who are not United States citizens or permanent residents. The consequences of violating these regulations can be quite severe, ranging from loss of research contracts and exporting privileges to monetary penalties and jail time for the individual violating these regulations. Institutional consequences may range from fines, to revocation of institutional export privileges, to institutional debarment from receipt of federal research funds, which would shut down a majority of UNT's research grants and contracts.

UNT senior leadership is fully committed to ensuring export compliance and expects every faculty member, staff, and student to share in that commitment. It is the responsibility of each individual to be aware of and comply with the U.S. export control laws in the performance of their research duties.

If you have any question concerning how these laws apply to you or any UNT activity, please contact Jamie Peno, Director of Research Integrity and Compliance at 940-565-3941 or jamie.peno@unt.edu or Export Compliance Officer Justin Cook at 406-223-2409 or Justin.cook@unt.edu.

Respectfully,

Narendra Dahotre, PhD
Interim Vice President
Research and Innovation

2 EXPORT COMPLIANCE REGULATIONS

Introduction: This Export Compliance Manual outlines the policies and procedures that are to be followed when implementing UNT's Export Compliance Program. UNT's export compliance program is an institution-wide program established to ensure that UNT is fully compliant with all applicable U.S. export control laws and regulations. Non-compliance with U.S. export control regulations could result in criminal, civil, or administrative penalties against both UNT as an entity as well as the individual employees who commits the violation. UNT's export compliance program has the challenging task of maximizing the benefits of UNT's international partnerships, while ensuring compliance with all appropriate U.S. export control laws and regulations.

Three principal agencies regulate export controls from the United States: the U.S. Department of State Directorate of Defense Trade Controls (DDTC) administers export control under the International Traffic in Arms Regulations (ITAR); the U.S. Department of Commerce (DoC) Bureau of Industry and Security (BIS) administers export control of "dual-use" technology under the Export Administration Regulations (EAR); and the U.S. Department of the Treasury Office of Foreign Assets Control (OFAC) administers exports to embargoed countries and specially designated entities.

International Traffic in Arms Regulations (ITAR): UNT works with ITAR controlled technology and is registered with Department of State, Directorate of Defense Trade Controls (DDTC). It is also important to understand that there is a hierarchy to export control regulations, with the ITAR at the top. DDTC's role is to administer the export and re-export of defense articles, defense services and related technical data from the United States to any foreign destination, or to any foreign person, whether located in the United States or abroad. UNT's role is to collaborate with DDTC to obtain any necessary export licenses or draft formal agreements that authorize the export of technology or articles, such as research in rockets or the technology associated with military platforms. This is accomplished through the ITAR, specifically the United States Munitions List (USML), which controls not only end items, such as a rocket engine or military aircraft, but also associated equipment, parts and components that are incorporated into the end item. Additionally, while the USML primarily covers defense or intelligence related technology and products, certain non-military items, such as commercial launch technology, also fall under the ITAR. The ITAR uses three different terms to designate export controlled items – technical data, defense articles and defense services. An updated version of the ITAR can be found at: http://www.pmddtc.state.gov/regulations_laws/itar.html.

Items Controlled Under the ITAR

The United States Munitions List (USML) designates categories and types of equipment as defense articles and associated technical data and defense services. The USML divides defense items into 21 categories ranging from firearms to military spacecraft and launch technology.

The USML has the following categories:

- Category I: Firearms
- Category II: Artillery
- Category III: Ammunition
- Category IV: Launch Vehicles, Guided Missiles, Rockets, Torpedoes, Bombs, and Mines
 - (a) Rockets (including but not limited to meteorological and other sounding rockets), bombs, grenades, torpedoes, depth charges, land and naval mines, as well as launchers for such defense articles, and demolition blocks and blasting caps.

- (b) Launch vehicles and missile and antimissile systems including but not limited to guided, tactical and strategic missiles, launchers, and systems.
- Category V: Explosives and Energetic Materials, Propellants, Incendiary Agents, Constituents
- Category VI: Surface Vessels of War and Special Naval Equipment
- Category VII: Ground Vehicles
- Category VIII: Aircraft and Related Articles
 - Aircraft, including but not limited to helicopters, non-expansive balloons, drones, and lighter-than-air aircraft, which are specifically designed, modified, or equipped for military purposes. This includes but is not limited to the following military purposes: Gunnery, bombing, rocket or missile launching, electronic and other surveillance, reconnaissance, refueling, aerial mapping, military liaison, cargo carrying or dropping, personnel dropping, airborne warning and control, and military training.
- Category IX: Military Training Equipment
- Category X: Personal Protective Equipment
- Category XI: Military Electronics
- Category XII: Fire Control/Sensors/Night Vision
- Category XIII: Material and Miscellaneous Articles
- Category XIV: Toxicological Agents
- Category XV: Spacecraft and Related Articles
- Category XVI: Nuclear Weapons, Related Articles
- Category XVII: Classified Articles, Technical Data, and Defense Services
- Category XVIII: Directed Energy Weapons
- Category XIX: Gas Turbine Engines and Associated Equipment
- Category XX: Submersible Vessels and Related Articles
- Category XXI: Articles, Technical Data, and Defense Services Otherwise Not Enumerated

§ 121.16 Missile Technology Regime Annex

- Category I – Item 1: Complete rocket systems delivering at least a 500-kg payload to a range of at least 300 km.
- Category I – Item 2: Complete subsystems usable in the systems in Item 1
- Category II – Item 3: Propulsion components and equipment usable in the systems in Item 1
- Category II – Item 11: Avionics equipment, “technology” and components as follows; designed or modified for use in the systems in Item 1

Authorization to Export and Example: Defense articles, technical data, and/or defense services controlled by the ITAR can be exported only by obtaining an export license from Department of State, using a license exemption, or falling under the authority of an agreement, such as a Technical Assistance Agreement (TAA), Manufacturing License Agreement (MLA) or Warehouse/Distribution Agreement (W/DA). If there is ever any doubt about whether an export license is required for any UNT technology, then UNT’s Export Compliance Officer Justin Cook should be contacted immediately. Once determined that a license is required, then Justin can apply for an export license from Department of State DDTC. The ITAR also contains many license exemptions, but these again should not be utilized without first obtaining approval from Justin given that the use of exemptions is complex and require significant review and record keeping prior to using. The following is a short example of the export process to export an ITAR controlled defense article to the United Kingdom (UK).

1. Situation: UNT has a NASA contract to support the development of new rocket propulsion technology. To support this effort, UNT requires a new cooling system from a company based in the UK.
2. Determine the Reason for Controls: The UNT export controlled grant involves a scale model of a rocket propulsion system is ITAR controlled and the UK company requires the propulsion system to integrate the cooling system. This will require an export of one propulsion system to the UK company.
3. Export License: Following the ITAR determination, there are only three options to export the data/system; an export license, an exemption, or the use of an agreement. As previously stated, exemptions are difficult to use and many times can take as long or longer to meet the provisos than applying for an export license. Also, since this is to integrate a cooling system, not to design it, an export license is the easiest and most expedient way forward. The export license request, also known as a DSP-5, takes approximately 30-60 days for the review process and determination following a collaboration agreement or contract with the UK company.

Export Administration Regulations (EAR): UNT's controlled research grants also fall under the EAR, which is governed by the Department of Commerce (DoC), Bureau of Industry and Security (BIS). BIS regulates the export of commercial products and technology, sometimes referred to as "dual use", meaning they can be used for both civilian and military purposes. While there are some similarities between the ITAR and EAR, the EAR has more specificity and controls most products and technology developed in the U.S., while the ITAR predominantly focuses on military and space related goods and technology. Also, as stated previously, an ITAR determination must be made first, prior to classifying an item in the EAR. An updated version of the EAR can be found at: <https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>.

As previously stated, the EAR controls most commercial items that have the potential for "dual use," or otherwise are of strategic value to the U.S. If the items are listed in the Commerce Control List (CCL), then the item will be assigned an Export Control Classification Number (ECCN), which will detail the export controls of that item. For example, an Apple laptop is controlled under the basket designation known as EAR99 and is only controlled for Anti-Terrorism (AT) reasons. The laptop is EAR99 because it is low-level technology that is not listed on the CCL and was pre-determined to not be ITAR controlled. The benefits of EAR99 is that this technology can generally be exported with No License Required (NLR), unless the export is to an embargoed country, or to a prohibited person or end-use. The opposite side of the CCL is Category 9 for aerospace, propulsion systems, space vehicles, and related equipment that has significant export controls and requires the use of an export license or exception for export to most countries and end-users.

The CCL has the following specific categories and groups (UNT associated categories in red):

- Category 0: Nuclear Materials, Facilities & Equipment & Miscellaneous Items
- Category 1: Materials, Chemicals, Micro-organisms & Toxins
- Category 2: Materials Processing
- Category 3: Electronics Design, Development, and Production
- Category 4: Computers
- Category 5 (Part 1): Telecommunications
- Category 5 (Part 2): Information Security
- Category 6: Sensors and Lasers

- Category 7: Navigations and Avionics
- Category 8: Marine
- Category 9: Aerospace, Propulsion Systems, Space Vehicles and Related Equipment

Authorization to Export and Example: As previously stated, items or technology controlled under the EAR can be exported with No License Required (NLR), obtaining an export license from Department of Commerce or using a license exception. If there is ever any doubt about whether an export license is required, then Justin Cook should be contacted immediately. Once determined that a license is required, then Justin can apply for an export license from Department of Commerce, BIS. The EAR also contains several license exceptions, but these again should not be utilized without first obtaining approval from Justin given that the use of exceptions is complex and require significant review and record keeping prior to using.

As an example, ECCN 9A106 has certain rocket components that are controlled under Commerce versus diverting to the ITAR, which is predominantly where rockets and launch technology is controlled. The following details the export process for a rocket nozzle, which is controlled under ECCN 9A106.b. This technology is controlled for Missile Technology (MT) column 1 and Anti-Terrorism (AT) column 1 reasons.

The Commerce Country Chart provided in the following page details when an export license is required by placing an “X” in the box of control. By continuing the ITAR example to the UK company, a rocket nozzle will also require an export license to the UK company since there is an “X” in MT column 1.

9A106 Systems, “parts” or “components,” other than those controlled by 9A006, usable in “missiles”, and “specially designed” for liquid rocket propulsion systems, as follows (see List of Items Controlled).

License Requirements

Reason for Control: MT, AT

Control(s) *Country Chart*
(See Supp. No. 1 to part 738).

MT applies to entire entry
 Column 1 MT

AT applies to entire entry AT Column 1

AT:	Anti-Terrorism	CB:	Chemical & Biological Weapons
CC:	Crime Control	CW:	Chemical Weapons Convention
EI:	Encryption Items	FC:	Firearms Convention

MT: Missile Technology
 NP: Nuclear Proliferation
 SS: Short Supply

NS: National Security
 RS: Regional Stability
 XP: Computers

Commerce Country Chart

Countries	Reason for Control															
	Chemical & Biological Weapons			Nuclear Nonproliferation		National Security		Missile Tech	Regional Stability		Firearms Convention	Crime Control			Anti-Terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	FC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Togo	X	X		X		X	X	X	X	X		X		X		
Tonga	X	X		X		X	X	X	X	X		X		X		
Trinidad & Tobago	X	X		X		X	X	X	X	X	X	X		X		
Tunisia	X	X		X		X	X	X	X	X		X		X		
Turkey ³	X					X		X	X							
Turkmenistan	X	X	X	X		X	X	X	X	X		X	X			
Tuvalu	X	X		X		X	X	X	X	X		X		X		
Uganda	X	X		X		X	X	X	X	X		X		X		
Ukraine ⁸	X					X	X	X	X	X		X	X			
United Arab Emirates	X	X	X	X		X	X	X	X	X		X		X		
United Kingdom ³	X					X		X	X							

This example highlights that even close allies to the United States, such as the UK, still have significant export controls on commercial and “dual use” technology. Technology and products derived from research grants and project may have these same controls and Jamie Peno, Director, Research Integrity and Compliance and Justin Cook, the Export Compliance Officer, are the two points of contact for questions.

Office of Foreign Assets Control (OFAC): U.S. economic sanctions broadly prohibit most transactions between a U.S. person and persons or entities in an embargoed country, including in Cuba, Iran, North Korea, Syria, and Sudan. This prohibition includes imports/exports of goods and services, whether direct or indirect, as well as facilitation by a U.S person of transactions between foreign parties and a sanctioned country, such as if someone in Syria asked an employee at UNT to export rocket technology to Syria. More limited sanctions may also preclude certain transactions or require export licenses for additional oversight. Since sanctions evolve based on the international environment, the following link should be utilized to determine if sanctions apply: <http://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>.

3 EXPORT COMPLIANCE IMPLEMENTATION AND RESPONSIBILITIES

3.1 COMPLIANCE STAFF

Jamie Peno, Director of Research Integrity and Compliance, and Justin Cook, the Export Compliance Officer, are the primary points of contact at UNT for export compliance questions and support for export licenses, contract reviews, and agreements.

3.2 FACULTY/STAFF/STUDENT RESPONSIBILITIES

Faculty:

Principal Investigators (PIs) are the primary points of contact for the compliance office as PIs are responsible for staffing decisions on grants and contracts. If projects involve export controlled technology and/or export controlled equipment, the Export Compliance team will work to determine export control requirements, which will include the development of a Technology Control Plan (TCP). Again, if there is any doubt about whether technology or research is export controlled, then Jamie or Justin should be contacted for consultation.

Training: Training is the foundation of a successful export compliance program. Well-informed staff minimize the likelihood that inadvertent violations of the law will occur. The greatest risk of non-compliance of export laws and regulations occurs during casual conversations in person, on the telephone, or via e-mail. The way to prevent these types of violations is through awareness and training. Review of this policy and periodic training will support an export compliance culture at UNT.

All research staff associated with export activities will be briefed on this Export Compliance Manual by the Export Compliance Officer, as an introduction, and will be asked to review and sign a Technology Control Plan (TCP) prior to engaging in an export controlled activity.

UNT will provide Export Compliance training as required for export controlled grants and contracts. It is ultimately the individual's responsibility to comply with export control laws, regulations, policies, rules, and procedures, which is why this training is required prior to engaging in export controlled work. All UNT faculty, staff, and students that are involved in export controlled research are required to take export compliance training at least every eighteen months.

Possible Violations:

If you are aware of a possible violation of export control laws or regulations you are required to promptly report these concerns to the Export Compliance Officer, Director of Research Integrity and Compliance, or Empowered Official for review. Reporting may be done anonymously.

Suspected violations should be reported to:

Justin Cook

Export Compliance Officer

Ph: 406-223-2409

justin.cook@unt.edu

Jamie Peno

Director, Research Integrity and Compliance

Ph: 940-565-3941

Jamie.Peno@unt.edu

Narendra Dahotre, PhD

Interim Vice President of Research and Innovation

Empowered Official (EO) for Export Control

Ph: 940-369-7487

Email: [Narendra Dahotre](mailto:Narendra.Dahotre)

Possible violations of U.S. export control laws or regulations will be investigated by the compliance team, to the extent deemed necessary. The compliance team will determine whether notification to an appropriate government agency is required.

3.3 DOES EXPORT COMPLIANCE APPLY?

If the terms and conditions of a Request for Proposal (RFP), solicitation, or a document contain any of the following restrictions or limitations, there is a strong likelihood that the US Export Control Laws will apply.

Below are some indicators to watch for:

1. Does the document specifically state that ITAR, EAR, Covered Defense Information (CDI) or Controlled Unclassified Information (CUI) apply?
2. Does the document specifically state that the technology involved is export controlled?
3. Does the technology or data involved have military, security, or intelligence applications?
 - a. Does it appear on ITAR's U.S. Munitions list?
4. Does the technology, data, or material involved have a dual civilian and military application?
 - a. Does it appear on the Commerce Department's Control List?
 - b. Does it have an Export Control Classification Number (ECCN)?
5. Does the research involve the use of encryption technology or encrypted software?
6. Does the research involve national security classified materials?
7. Will the PI be asked to maintain the confidentiality of customer information?
 - a. Was an NDA executed between the parties?
8. Does the document contain any publication restriction or limitations?
9. Are project participants limited to US citizens or legal resident aliens only?
10. Does the document involve the shipment or export of technology, data, or materials outside the United States?
11. Will collaborations with foreign consultants be required?
12. Will the work involve a country that has been embargoed or sanctioned by either the State or Treasury Departments?

3.4 EXPORT LICENSES AND EXCEPTIONS

Licensing is determined by the item being exported, where it is going, who is going to use it, and the end use. Justin Cook and Jamie Penno will submit and approve all export license requests and transactions.

UNT determines the type of ITAR license required for each export. The most common DDTC forms used for exporting defense articles include:

1. Form DSP-5, application/license for the permanent export of unclassified defense articles and related unclassified technical data.
2. Form DSP-61, application/license for temporary import of an unclassified defense articles;
3. Form DSP-73, application/license for the temporary export of unclassified defense articles;
4. Form DSP-85, application for permanent/temporary export or temporary import of classified defense articles and related classified technical data.

If there are EAR items which require licensing or possible license exceptions:

1. Export License

2. Use of EAR exception: As already stated, the use of exceptions is complex and requires significant review and approval from Justin and/or Jamie prior to an exception being utilized for an export of EAR controlled equipment. The following is a list of available exceptions, but please consult with Justin for applicability.

LVS: Shipments of Limited Value	RPL: Servicing/Replacement of Parts
GBS: Country Group B Country Shipments	GOV: Governments/International Orgs
CIV: Civil End-Users	GFT: Gift Parcels, Humanitarian Donations
TSR: Technology/Software under Restriction	TSU: Technology/Software Unrestricted
APP: Computers	BAG: Baggage
TMP: Temporary Exports/Imports...	AVS: Aircraft and Vessels
APR: Permissive Re-exports	ENC: Encryption Commodities
AGR: Agricultural Commodities	CCD: Consumer Communication Devices
STA: Strategic Trade Authorization	SCP: Support Cuban People

3.5 REGISTRATION AND RESTRICTED PARTIES SCREENING

As required of manufacturers and exporters in the United States who engage in the business of manufacturing or exporting defense articles (22 CFR §122.1(a)), UNT is registered with the DDTC.

UNT screens all U.S. and foreign parties through Restricted Party Screening (RPS) via the Consolidated Screening List (CSL) or Visual Compliance as required by the United States Government

http://2016.export.gov/ecr/eg_main_023148.asp .

If a company, entity or person on the list appears to match a party potentially involved in any UNT export transaction, additional due diligence should be conducted before proceeding. There may be a strict export prohibition, requirement for seeking a license application, evaluation of the end-use or user to ensure it does not result in an activity prohibited by any U.S. export regulations, or other restriction. Prior to taking further action, UNT must work with Justin Cook to check the official publication of restricted parties in the Federal Register or the official lists of restricted parties maintained on the web sites of the Departments of Commerce, State and the Treasury to ensure full compliance with all the terms and conditions of the restrictions placed on the parties on this list.

3.6 EXPORT CLASSIFICATION – ITAR/EAR

There are two principal ways of determining the classification of a U.S. item:

- **Self-Classification:** The process is completed in conjunction with the Export Compliance Officer who is ultimately responsible and must approve of the classification. The technology or item (particularly its technical parameters) will firstly be reviewed against the ITAR USML as an ITAR determination must be made and recorded for the record for all self-classifications. Following an ITAR determination, a review of the EAR CCL can be completed in conjunction with in-house technical personnel.
- **Commodity Jurisdiction (ITAR):** Since all technology is defaulted as ITAR, until reviewed otherwise, official classifications or Advisory Opinions are only used to verify an ITAR category. A Commodity

Jurisdiction (CJ) request is the formal process through Department of State to request a change of classification from the ITAR to the EAR and are used frequently for military funded technology that is also dual-use.

- **Commodity Classification (EAR):** Additionally, Department of Commerce BIS also provides a formal process for Export Classification after the ITAR determination has been completed. This is called a Commodity Classification and is used to verify an Export Control Classification Number (ECCN), which at times are required by the U.S. government or defense contractors. This request includes an analysis of the technical parameters of both the item and the recommended ECCN. Product brochures or data sheets, if available, should be included with the request, including a description of the item(s) and the requester's views as to why she/he considers a particular ECCN to be the correct category for the item.

Although self-classifications can be completed for EAR CCL items, Department of Commerce provides an easy to use system for Commodity Classification Requests and these are strongly recommended. Official written classifications may help avoid inadvertent errors or misinterpretations, particularly for items that do not fit neatly into a particular ECCN. It can be very helpful to have written, up-to-date evidence of what the Government considers the proper export classification of a product since this avoids the possibility of a dispute with Government export enforcement officials.

All export classifications must be submitted and approved by the Export Compliance Officer Justin Cook. Additionally, UNT Management will review each product, while in development stage, for classification determination. That determination is provided to the Export Compliance Officer for internal tracking.

4 INTERNATIONAL VISITORS AND EMPLOYMENT

4.1 INTERNATIONAL VISITORS

UNT frequently hosts non-U.S. citizen/Foreign Person visitors. Some of these individuals are, or could be, UNT employees.

The U.S. Government controls the transfer/export of technology to Foreign Persons, and prohibits access to some unclassified information to all non-U.S. citizens. These policies also apply to anyone, including a U.S. citizen representing a foreign interest, e.g., foreign company or foreign government, also called a foreign agent. Various government laws and regulations require the strict control of Foreign Person visits to defense contractor facilities, whether they are employees or visitors. As UNT is involved in applied research, UNT must also comply with Department of Defense (DoD) regulations regarding the admission of Foreign Persons to UNT controlled facilities/labs.

UNT requires that all non-U.S. Citizens/ Foreign Persons, as well as U.S. Persons representing a foreign interest, visiting UNT facilities, provide no less than one-week (five business days) notification to verify the necessary approvals/clearances (such as citizenship, country of representation, information/facility access requirements, discussion topics, and export/import authority) before the visitor's arrival.

In situations where correspondence through diplomatic channels is necessary, 30-day advanced notice is needed to obtain the appropriate Government-to-Government approvals/clearances. This includes visits

requiring:

1. The release of unclassified technical data as defined EAR/ITAR.

Government approvals are not necessary for Foreign Person visitors in the following situations:

- There will be no release or discussions of Technical Data.
- There will be no information released other than general business data and information, which has been previously approved for Public Release or is in the public domain.

Each Host/Escort shall understand and comply with the following:

1. A UNT employee Host/Escort is required for all non-U.S. citizen/Foreign Person visitors in export controlled facilities/labs.
2. The employee Host/Escort shall be a U.S. citizen and a UNT employee,
3. Disclosure of unclassified Technical Data to a Foreign Person constitutes an export and may be subject to controls of the ITAR or EAR.
4. Foreign Persons will be given access only to information necessary in the performance of task assignments and shall be subject to all Government approvals/sponsored visit request.
5. Ensure any information and/or material to be disclosed to a Foreign Person is approved, e.g., Technical Assistance Agreement (TAA), U.S. Government sponsored visit, or is already in the public domain.
6. Deny a Foreign Person access to export-controlled material and information unless there is an approved export authorization.
7. All electronic computer devices, cameras, and recording devices must be approved before they are authorized in the facility, including information and physical security requirements required by NIST 800-171. Care must also be taken during the visit to prevent inadvertent visual access by the visitor(s) to all active computer screens that may display export controlled technical data.

If a foreign person is in the room, no controlled work on paper, computer, or otherwise may be visible. Host/Escorts must also be aware that Resident Aliens who possess a valid Form I-551, i.e., "Green Card," and are therefore U.S. Persons, are nevertheless non-U.S. citizens. They, and anyone representing a foreign interest, company or government, may not have access to some unclassified information, such as For Official Use Only (FOUO) and work areas that U.S. Government customers have contractually specified for access by U.S. citizens only.

4.2 EMPLOYMENT OF FOREIGN NATIONALS

The ability to hire non-immigrant foreign nationals for certain positions may be restricted or prohibited by export control laws. For example, non-immigrant foreign nationals may be restricted or prohibited from performing employment responsibilities relating to certain information technology systems positions to the extent the work will involve access to controlled information or items.

5 INTERNATIONAL TRAVEL

International travel on behalf of UNT may be subject to export control regulations due to the technology, equipment, software, and technical data (in physical, digital or voice-transmitted form) being taken out of the country, and/or due to the travel destination.

5.1 TRAVEL - APPROVALS

You must determine whether an Export License is required if you are traveling internationally with export-controlled items or information. Any international travel with export controlled information must receive approval from UNT's Export Compliance Officer Justin Cook prior to travel.

Although there are export controlled technology or items that are not controlled for the destination; or the materials are considered "tools of the trade" for your discipline, UNT must document that the export controlled technology has been reviewed and approved for the specific travel.

5.2 TRAVEL—SECURITY

If export controls apply, your overall responsibility is to maintain effective control of the UNT-owned equipment, software, and/or data. You maintain effective control over an item by retaining physical possession of the item or securing the item in such an environment as a hotel safe, a bonded warehouse, or a locked or guarded meeting or conference facility.

6 FINANCIAL TRANSACTIONS, PROCUREMENT, CONTRACTING

UNT screens all financial transactions as appropriate for compliance with export control laws and regulations.

6.1 FINANCIAL TRANSACTIONS

UNT will conduct Restricted Party Screening (RPS) in accordance with internal procedures.

6.2 PROCUREMENT

UNT employees making international purchases will be responsible for ensuring such transactions comply with export control laws and regulations, as well as coordinating with Export Compliance Officer to resolve any export control issues prior to the purchase. This includes Restricted Parties Screening and understand the ECCN or ITAR Category associated with the technology or item. If an export license is required, Justin Cook will submit and approve the license and export transaction.

6.3 CONTRACTING

Agreements and Contracts:

Contracts (such as Memorandum of Understandings, Letters of Intent, and Non-Disclosure Agreements, etc.) made with U.S. and international sponsors will be subject to RPS and will be assessed for export control implications.

Independent Contractors:

Independent Contractor requests require RPS before the work and transaction processes take place.

7 SHIPPING

UNT's Export Compliance Officer, Justin Cook, must be consulted and approve any shipment of export

controlled items outside or inside the U.S. (including hand-carrying items such as equipment, computers, materials, or data) to comply with export control laws and regulations. Any transfer of project information, equipment, materials, or technology out of the U.S. by any method may be subject to export control restrictions, and may require an export license or be prohibited depending on the item, destination, recipient, and end-use.

The simple act of sending a package to a foreign collaborator can result in a violation of export controls. Also, shipping to countries subject to embargoes must first be cleared by the Export Compliance Officer.

Every effort should be made to correctly label a package and accurately represent the classification of the item because mislabeling and misclassification, regardless of intent, is a violation. Under-invoicing or under-valuing an exported item is a violation, or reporting an incorrect export value on a Shippers Export Declaration also violates export regulations.

Any potential export control issues regarding shipping should be referred to the Export Compliance Officer for assistance and resolution.

8 RECORDKEEPING

All export control records will be retained for a minimum period of five (5) years from the date of export or from the date of license expiration, as per the requirements of ITAR Section 123.22 and EAR Section 762.6. These records must be organized to be available when requested by U.S. governmental authorities or for internal audit purposes. Records include printed and hard copy documents, as well as electronic records (including e-mail, e-mail attachments and other electronic files). In some cases, records will require restricted access where, for example, they contain controlled technical data as part of the transaction.

All export controlled data is to be kept on the UNT internal server with access provided only to designated employees.

9 INTERNAL AUDIT AND MONITORING

To assist employees in complying with export control procedures, the UNT Export Compliance Officer may conduct periodic reviews and self-assessments of the UNT Export Controls Compliance Program.

10 INFORMATION TECHNOLOGY

ITAR/EAR controlled information and technology is considered Covered Defense Information (CDI), specifically Controlled Unclassified Information (CUI). CUI requires additional physical and information security controls that can be found at <http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-171.pdf>. These controls include information security controls, such as encryption of email, hard-drives, computer servers, and any place where CUI is transmitted or stored at rest, including the implementation of multi-factor authentication.

UNT employees shall not:

- Electronically store export-controlled documents on “cloud servers” (e.g. DropBox, Google Drive, etc.); or
- Allow unauthorized second-party access to export-controlled electronic documents.

UNT employees shall strictly adhere to protocols outlined in technology control plans assigned to specific projects, items, and/or information to protect unauthorized access—inclusive of electronic data protection—of such items.

UNT employees shall mark documents with proper disclaimers notifying the reader of the possibility of ITAR or EAR controlled data, such as:

This document may contain technical data which may be controlled by the US International Traffic and Arms Regulation (ITAR) 22 CFR part 120-130 or Export Administration Regulation (EAR) 15 CFR part 730-774. If this data is determined to be export controlled, it may not be exported, transmitted, shared, disclosed, or provided to any non- US Persons as defined by the ITAR and EAR either verbally or visually without first complying with the export control requirements of the ITAR or EAR. It is the recipient's responsibility to assure this item can be legally shared with another party. The following links to the ITAR and EAR are provided for your reference.

11 U.S. GOVERNMENT ENFORCEMENT

The U.S. government has built in various enforcement mechanisms to ensure compliance with export control laws. U.S. Customs officials have the authority to check any export or import against its license at the borders. For dual-use items, Department of Commerce officials also investigate violations. Licensing authorities often require pre-license checks and post-shipment verifications.

Criminal and civil penalties for export control violations can be severe. For munitions export control violations, the statute authorizes a maximum criminal penalty of \$1 million per violation and, for an individual person, up to 10 years imprisonment. In addition, munitions violations can result in the imposition of a maximum civil fine of \$500,000 per violation of the ITAR, as well as debarment from exporting defense articles or services. For dual-use export control violations, criminal penalties can reach a maximum of \$500,000 per violation and, for an individual person, up to 10 years imprisonment. Dual-use violations can also be subject to civil fines up to \$12,000 per violation, as well as denial of export privileges. It should be noted that in many enforcement cases, both criminal and civil penalties are imposed.

12 DISCIPLINARY ACTIONS

As stated, there are severe institution and individual sanctions for violations of export controls laws, including the loss of contract funding, loss of export privileges, as well as civil and criminal penalties, up to and including imprisonment. In the event of non-compliance with processes set forth in this manual or corresponding UNT policies and procedures, an internal audit will be completed and forwarded to the Empowered Official. Additionally, faculty/staff may be subject to disciplinary action up to and including termination in accordance with UNT policies and regulations.

Common sense is key when identifying potentially problematic transactions. You should stop the transaction if:

An international collaborator -

- Is reluctant to provide end-use/user information
- Is willing to pay cash for high-value shipments
- Has little background or history in the relevant research/business
- Appears unfamiliar with the product or its use
- Orders products/quantities incompatible with the relevant research/business

- Provides vague delivery dates or locations

A shipment involves -

- Freight forwarder designated as consignee/end-user
- Intermediate consignee's business or location incompatible with end-user's
- Shipments directed to trading companies, freight forwarders, or companies with no connection to buyer/institution
- Requests for packing inconsistent with normal mode of shipping
- Choice of circuitous or economically illogical routing, or through multiple countries;

The end-user requests -

- Equipment inconsistent with inventory
- Spare parts in excess of projected needs
- Performance/design specs incompatible with resources or environment
- Technical capability/end-use incompatible with consignee's line of research/business
- End-use at variance with standard practices
- Middleperson from third country to place order
- Refuses to state whether goods are for domestic use, export, or re-export

If in doubt, consult the Office of Research Integrity and Compliance..

13 OFFICE OF RESEARCH INTEGRITY AND COMPLIANCE CONTACT INFORMATION

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