EXPORT CONTROL POLICY

I. Policy Statement

It is the policy of Portland State University (“University”) to comply with all United States export control laws and implementing regulations, including the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), and sanctions regulations. The University is also committed to the free and open exchange of knowledge, academic freedom, and broad access to research data and results. The University has established an Export Compliance program to ensure that both commitments are adequately addressed. While the majority of University activities will not be affected by Export Controls, those that are must be managed to ensure compliance with all applicable export control laws and regulations.

II. Reason for Policy/Purpose

University and its community members are expected to understand and comply with Export Controls, which are vital tools used to protect the national security and foreign policy interests of the United States. Export Controls restrict the export and re-export of certain items, software, information, technology, and data. Violations of Export Controls may result in significant penalties to the University (as well as civil or criminal sanctions to individuals), including civil fines, debarment or suspension from federal contracting, and loss of export privileges. Research, procurement, travel, shipping, and other University activities may be subject to Export Controls, and, as such, an export control policy and management plan have been implemented to document PSU’s commitment to export compliance. Although the University provides assistance, advice, oversight and expertise, primary responsibility for compliance with Export Controls is the responsibility of the faculty, researcher or other community member initiating the export.

III. Definitions

**Deemed Export**: The release, transfer, or disclosure, including oral exchanges or visual inspections, to a foreign national of technology, source code, or technical data that is subject to Export Controls.

**Export**: Means any of the following a) an actual shipment or carrying of controlled items out of the United States, b) the electronic or digital transmission of controlled technical data or technology out of the United States, or c) any release, transfer, or disclosure (including oral or visual disclosure) of controlled items, technical data, or technology to foreign nationals in the United States or abroad.
Export Controls: Federal regulations overseen by the Departments of State, Commerce, and Treasury which prohibit unauthorized exports of certain commodities, software, technologies, services, money, or services to foreign entities, persons, and destinations. Export Controls are concerned with national security and do not involve customs, tariffs, or trade policy. Export Controls primarily consist of the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR). Foreign Asset Control Regulations, also known as US Sanctions Regulations, are also considered Export Controls.

Foreign National: Also known as foreign persons, a foreign national is a) an individual who is not a U.S. citizen or permanent resident of the U.S.; b) an individual who has not been granted asylum or other protected status; c) a corporation, business, or other entity that is not incorporated or organized under U.S. law, or d) an international organization or a foreign government, including agencies or other subdivisions of foreign governments.

Fundamental Research: Basic and applied research in science and engineering where the resulting information is ordinarily published and shared broadly within the scientific community. Research where the distribution of results are restricted for proprietary reasons or US government access and dissemination controls cannot be considered fundamental research. The information resulting from, or that arises during, fundamental research is excluded from Export Controls.

Technology Control Plan: A document that defines the specific physical and electronic controls and procedures that will be taken to prevent unauthorized access to or export of controlled technology.

IV. Applicability

This policy applies to all University employees, students, volunteers, visiting researchers and scholars, schools, colleges, and administrative units of the University, contracted nonpermanent individuals and vendors while doing business with or on behalf of the University, and other members of the University community whose activities may intersect with Export Controls.

Activities in the following areas are frequently impacted by export controls:

- Employment of foreign nationals: Before hiring a foreign national, the University is required to certify that the employee will not be the recipient of controlled technology or technical data, and won’t have access to any items where foreign national access to them would constitute a violation of Export Controls. If the employee will need an export license to access technology, technical data, or items required for the employee to fulfill their anticipated duties, the University must certify that the employee will have no access to controlled technology, data, or items until the license has been granted.

- International travel: When University personnel travel internationally, it exposes the University and the traveler to significant risk of violating US Export Controls and sanctions regulations. Risk areas include travel to sanctioned countries, sharing controlled
technology or technical data with foreign nationals, transportation of controlled items, presenting at conferences abroad, and transportation of University owned equipment or software.

- **Shipping internationally:** Anytime an item is shipped internationally, export controls must be considered. The items being shipped abroad should be checked for the Export Control implications of their export. A variety of federal agencies have jurisdiction over a wide array of tangible exports. Even seemingly harmless exports may be restricted. The recipient (either an individual or institution) could also be restricted from receiving exports from the United States. All recipients of shipments to international destinations should be checked against US watch lists.

- **Use and storage of sensitive technologies** – Some technology, technical data, and items are controlled to a degree that requires the University to ensure that they are secured and unable to be accessed by unauthorized persons at all times. This is accomplished by the establishment of Technology Control Plans, in conjunction with all responsible parties.

- **Disclosures or transfers to foreign nationals** – The University community includes foreign national students, visiting scholars, and employees. It is possible that a foreign national community member will require access to controlled technology, technical data, or items in the course of their duties or educational pursuits. If no exemptions to export control restrictions can be utilized, the University will apply for an export license to allow the foreign national community member to access the controlled technology, technical data, or item.

- **Publication of research results** – Most University research is exempted from Export Controls by the Fundamental Research Exclusion. However, projects with restrictions on publication, as well as access or dissemination restrictions, cannot be considered Fundamental Research. Sponsors generally place restrictions on the publication of research results for proprietary or security reasons. If a project is subject to publication, access, or dissemination restrictions, and the research includes Export Controlled technology or technical data, then the project will be impacted by Export Controls.

### V. Policy

#### 1.0 Roles and Responsibilities.

1.1 The Vice President for Research & Strategic Partnerships:

   1.1.1 Oversee the University’s export compliance program.

   1.1.2 Appoint an Export Control Officer, which will be housed in the Office of Research Integrity.

   1.1.3 Serve as the Empowered Official in ITAR related matters.

1.2 The Export Control Officer (ECO):

   1.2.1 Develop, implement, and manage the University’s export compliance program, subject to oversight of the Vice President for Research & Strategic Partnerships.
1.2.2 In consultation with relevant stakeholders, draft and periodically update the University’s Export Control Management Plan, which serves as a guide to the University’s export compliance activities.

1.2.3 Serve as the point of contact for faculty, staff, and other members of the University community engaging in activities that potentially could be impacted by Export Controls. Assist such individuals in assessing Export Control obligations.

1.2.4 In consultation with affected faculty and staff and the Office of General Counsel, as needed, review activities and make determinations as to whether an export license is required or the activities qualify for an exemption. Assist the University in complying with Export Controls. Apply for export licenses, as needed.

1.2.5 Respond to potential violations of Export Controls. In responding to potential violations, the ECO may: a) make a preliminary assessment of the incident to determine if further action is required; b) initiate an investigation of the potential violation, in consultation with the Office of General Counsel; c) report violations to the appropriate authorities; and d) take other action, as the ECO deems appropriate.

1.2.6 Implement formal and informal compliance checks to test, monitor, and review compliance with Export Controls and Technology Control Plans. The ECO will have access to information, records, systems, facilities, and laboratories in order to fulfill this responsibility.

1.2.7 Develop, coordinate, and deliver training and outreach programs to relevant parties on a periodic basis.

1.2.8 Serve as the primary point of contact for regulators with enforcement authority under Export Controls.

1.2.9 Draft Technology Control Plans in collaboration with faculty, staff, and relevant departments.

1.2.10 Serve as a secondary Empowered Official in ITAR related matters.

1.2.11 Keep records related to exports in compliance with the applicable regulations.

1.3 Faculty, staff, students, and other members of the University community:

1.3.1 Be aware of and comply with applicable Export Controls and applicable PSU policies and guidelines, including this Policy and the Export Control Management Plan.

1.3.2 Assess how Export Controls might apply to research and non-research activities and consult with ECO prior to engaging in activities that might trigger Export Controls.

1.3.3 Consult the ECO whenever exports are contemplated in conjunction with University activities.
1.3.4 Cooperate with the ECO to make determinations on the applicability of export controls to their activities, travel, research, or equipment under their control.

1.3.5 Understand and comply with the terms and conditions of sponsored project or other agreements, including those regarding Export Controls, publication restrictions, and foreign national participation.

1.3.6 Implement and comply with the terms of any applicable Technology Control Plans.

1.3.7 Report suspected or actual violations of Export Controls to the ECO.

1.3.8 Attend offered training or outreach sessions regarding export compliance and export regulations.

1.4 The Office of General Counsel:

1.4.1 Serve in an advisory capacity to the ECO and the University.

1.4.2 Advise and assist the ECO in investigations of potential violations of Export Controls.

1.4.3 Advise the ECO in assessing and implementing corrective actions.

1.4.4 Advise the ECO and other staff on interpretation of regulations and evaluate contracts and other agreements, as needed.

2.0 Corrective Action. When violations of Export Controls are detected, PSU will take appropriate corrective action, which may include the implementation of remedial measures and personnel and/or programmatic actions.

3.0 Fundamental Research. PSU will seek to protect and preserve Fundamental Research to the greatest extent possible. However, in instances where the Fundamental Research exclusion cannot be preserved, the University may accept export controlled research.

4.0 Retaliation. Retaliation against any person making good-faith reports or participating in investigations of potential violations of Export Controls is prohibited. Any act of retaliation or reprisal is a violation of this policy.

5.0 Enforcement. Any employee or student found to have violated this policy may be subject to disciplinary action in accordance with applicable PSU policies, procedures and collective bargaining agreements. Any vendor, contractor, or affiliate found to have violated this policy may be subject to disciplinary action, up to and including termination of contract or affiliation. Additional civil and/or criminal sanctions may be applicable.

VI. Links To Related Forms

Links to forms are available on the PSU Export Controls website

VII. Links To Related Policies, Procedures or Information

5 – Export Control Policy
The PSU Export Compliance Management Plan contains more information about University’s export compliance program. Those wishing to receive training in export controls should review PSU’s export controls training and outreach webpage.

VIII. Contacts

If you have any questions regarding this policy, please contact Research and Strategic Partnerships at (503) 725-9944 or export@pdx.edu.

IX. History/Revision Dates

Adoption Date: December 18, 2017

Next Review Date: December 18, 2022