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US Export Compliance Manual for Non-US Companies

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GLOSSARY OF TERMS

§	Section
AECA	Arms Export Control Act
BATFE	Bureau of Alcohol, Tobacco, Firearms and Explosives
BIS	Bureau of Industry and Security
CFR	Code of Federal Regulations
CJ	Commodity Jurisdiction
CMMC	Cybersecurity Model Maturity Certification
DDTC	Directorate of Defense Trade Controls
DFARS	Defense Federal Acquisition Regulation Supplement
DOD	Department of Defense (United States)
DOJ	Department of Justice
EAR	Export Administration Regulations
EU	European Union
FAR	Federal Acquisition Regulation
HESS	Health, Environment, Safety and Security
ITAR	International Traffic in Arms Regulations
MLA	Manufacturing License Agreement
NATO	North Atlantic Treaty Organization
NISPOM	National Industrial Security Program Operating Manual
RFP/RFQ/RFI	Request for Proposal/Quotation/Information (Solicitation)
SME	Significant Military Equipment
TAA	Technical Assistance Agreement
US	United States
USML	United States Munitions List
WDA	Warehouse Distribution Agreement

LINKS AND RESOURCES

US Department of State, Directorate of Defense Trade Controls
www.pmdtcc.state.gov/

US Department of Commerce, Bureau of Industry and Security
www.bis.doc.gov/

Bureau of Alcohol, Tobacco, Firearms and Explosives
www.atf.gov/

INTRODUCTION AND SUMMARY

THE US EXPORT COMPLIANCE MANUAL FOR NON US COMPANIES

We are committed to implementing and maintaining an effective Export Compliance Program that ensures compliance with all applicable export control regulations. To accomplish this task, support and staffing is required at each level of the organization.

The International Traffic in Arms Regulations (ITAR) is a set of United States government requirements that control the export and retransfer of US origin defense articles, defense technological data, and defense services where it exists. The US Department of State, Directorate of Defense Trade Controls is responsible for administering and enforcing ITAR.

The Export Administration Regulations (EAR) are a set of regulations administered by the Bureau of Industry and Security (BIS), which is part of the US Commerce Department. The EAR contain a list called the Commerce Control List (CCL). The CCL is a limited list of items within the scope of the EAR, which merit particular attention because they could potentially have a military use in addition to a commercial use. CCL-listed items are therefore often referred to as "dual use."

This Manual summarizes the ITAR and the EAR and our regulatory compliance with US Export Regulations. This document is not intended to provide a comprehensive recital of every regulatory detail, and employees are encouraged to consult with the Compliance staff regarding detailed questions or clarifications that may be needed when dealing with specific Export Controlled situations.

It is the responsibility of every employee to ensure that they are familiar with US Export Regulations and that their work activities are in full compliance. Export compliance is of critical importance any time an employee:

- Sponsors a person as a visitor to our facilities.
- Meets with a non-employee at our facilities or travels to a foreign country.
- Hires an employee, contractor, consultant, or other temporary worker, particularly a dual or third country national.
- Markets a product or service with US origin data or hardware in a public forum (e.g. trade shows, business or technical conferences).
- Re-exports hardware and technical data, which has US origin content.
- Transmits technical data with US origin content electronically (i.e. fax, phone, email, videoconference) to a foreign person or entity.
- Issues or responds to RFPs/RFQs/RFIs and establishes purchase or contracts with business partners when US origin content is embedded.
- Disseminates technical data to the public or releases technical data into the public domain, which may have US origin content (e.g. product brochures, internet sites, press releases, videos of products, product advertisements).
- Securing the hard storage and soft storage of US Export Controlled data.
- Imports hardware or technical data with US origin content from any party located anywhere.
- Engages in any work-related conversation with persons not employed by the same legal entity about a project or service, which is US Export Controlled.

ITAR and EAR does not control the flow of non-US origin defense articles, data and services.

We will not participate in re-export or retransfer of Export Controlled technical articles, data or services unless written authorization for the retransfer has been obtained from the US Department of State, or as necessary the US Department of Commerce.

PROCEDURES FOR US EXPORT CONTROLLED CONTENT

1. PURPOSE AND SCOPE

1.1 Purpose

The US Export Compliance Manual for Non US Companies ("the Manual") provides guidelines regarding US export compliance for Non US Companies. Companies in the US must comply with the US export regulations with many of the same requirements, but for Non-US companies there are additional requirements which must be adhered to.

1.2 Scope

The Manual applies to all our business and facilities outside of the United States. Compliance with this manual are non-delegable responsibilities of all management, employees, and contractors, as well as any subsidiary, joint venture, or other business entity in which we own directly or indirectly fifty percent or more of the equity or which we otherwise has management control.

1.3 Responsibility

Our companies have primary accountability for integrating export compliance requirements covered by this manual into their business activities and practices.

1.4 Limitation

These compliance procedures do not address the export control requirements of countries other than the US, nor the requirements of the European Union or the international agreements or regimes. These practices are not intended as a substitute for compliance with the non-US domestic export laws and regulations but as an additional protocol, and are not a replacement for the US export regulations themselves.

2. GOVERNING LAWS AND REGULATIONS

2.1 EAR

The US Commerce Department's Export Administration Regulations ("EAR") and CCL-listed items are often referred to as "dual use." The overwhelming majority of things that fall within the scope of the EAR are not listed on the CCL; instead, they are given the designation "EAR99". Items that are listed on the CCL are organized according to alphanumeric designations called "Export Control Classification Numbers" (ECCNs).

2.2 ITAR

All items regulated by the US Department of State under the ITAR are listed on the US Munitions List ("USML"), which includes technologies "specifically designed or modified for military purposes." All exports from the US and all temporary imports as well as all re-exports of items on the USML require specific licenses or authorization from the US Department of State unless an ITAR exemption applies.

Our companies should maintain a list of products and technology manufactured and exported which are on the USML, see section 6.

2.3 **BATF regulations**

The permanent importation into the United States of many defense articles is governed by regulations published by the US Department of the Treasury's Bureau of Alcohol, Tobacco and Firearms ("BATF").¹

Violations of any export regulations can involve serious consequences for both our company and individuals involved. Substantial fines or prison terms, or both, may be levied and export privileges may be denied.

3. **ITEMS AND ACTIVITIES SUBJECT TO CONTROL UNDER THE US EXPORT REGULATIONS**

3.1 **Items Controlled**

In general, items controlled by ITAR include US origin commodities, technology, and software. However, technology and software that is already in the "public domain" are outside the regulatory scope of the ITAR. The ITAR, in particular, controls US origin defense articles, technical data, and defense services wherever it exists in the world.

3.1.1 Defense Articles

A defense article is any item, including technical data that is included on the USML. Generally, defense articles include any items that is "specially designed, developed, configured, adapted, or modified for a military application."

3.1.2 Technical Data

"Technical data" means US origin information that "is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of a defense article," including blueprints, drawings, photographs, plans, instructions and documentation.

3.1.3 Defense Services

Defense services include "the furnishing of assistance (including training) to foreign (non-US) persons, whether in the US or abroad, in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles."

3.2 **Activities Controlled**

Re-export or retransfer means the transfer of defense articles or defense services to an end use, end user or destination not previously authorized.

Re-Exporting any US origin defense article or technical data is controlled under the ITAR, this includes:

¹ The citations for these regulations and contact information for their administering agencies are contained at ANNEX 1.

- Shipping an ITAR controlled item to a previously unauthorized end user outside the US
- Carrying an ITAR controlled item to another country (for example, carrying a laptop computer or drawings with US origin technical data on a business trip with some exceptions for encryption control)
- Using any mode of communication (e.g., telephone, fax or e-mail) to transport ITAR controlled technical data
- Permitting a non-US citizen or non-US permanent resident foreign national to have access to software or technical data is “deemed” an export to that person’s home country. Home country can be defined as both the country of origin and the country(ies) from which passports are issued

No Re-export of US Export Controlled Technical Data or Hardware Without Required Advance Approval, or Use of an Exception or Exemption. The ITAR prohibits re-exports of ITAR controlled technical data and hardware without re-export authorization issued by the appropriate authority (Directorate of Defense Trade Controls at the US Department of State). This includes release of ITAR controlled technology outside of each company, including transfers via the internet, meetings and including tours of production areas other than perimeter tours.

4. EXPORT COMPLIANCE STAFFING

4.1 Compliance Roles within our Companies

Each company is required to provide adequate staffing to ensure export compliance with all relevant export control laws and regulations, including US Export Controls, and implementation of specific compliance practices. To accomplish this, there should be the appointment of at least one Compliance responsible at each company. The Compliance responsible should be supported by a local Compliance Team to oversee the coordination of US Export Procedures throughout the company. For example, a best practice would be for the Compliance Team to include representation from; compliance, contracts, procurement, transportation, sales & marketing, business development, engineering, production, product office, HESS, IT and other departments engaged in working with third parties and hiring personnel and transporting goods and technical data.

Responsibilities of the Compliance Team as it relates to US Export Requirements and Compliance includes:

- Know the US export regulations. Acquire and maintain an understanding of the ITAR and EAR. Attend ITAR-related training sessions. The US Export Regulations are amended from time-to-time. As a result, activity that has been or is presently permissible may be prohibited in the future. For this reason, the Compliance Team should obtain, maintain and regularly review current copies of the ITAR and the EAR.
- Maintain & distribute US export policies and procedures. Maintain and update the internal work orders including Policies and Procedures related to export control.
- Maintain classification of products and technology. Have a system in place to ensure that all products and technical data re-exported have been properly classified under the US Munitions List (or, as appropriate, the US Commerce Control List) and that classification information has been distributed to all affected personnel, see section 6.
- Provide regular US export updates for employees. Work with the local human resource office to ensure that all employees receive appropriate training. Work with corporate Compliance to receive updated information on US Export Controls.

- Recordkeeping. Review systems to assure that all documentation required in connection with US export activities is secured and maintained by designated staff in a manner consistent with the US Export Requirements and is compliant with the company. Record retention requirements, see ANNEX 6.

5. **SPECIFIC POLICIES APPLICABLE TO EMPLOYEES**

5.1 **Maintain Awareness of Export Compliance Regulations**

Employees shall maintain an awareness of Export Control, including US Export compliance policies and procedures and shall operate in full compliance with the restrictions and requirements.

5.2 **Policies on Re-exports of ITAR Controlled Hardware and Technical Data**

Employees shall ensure that all re-export shipments of US Export Controlled hardware or technical data are reviewed and approved by an internal approval process prior to the time of re-export.

5.3 **Policies on Electronic Transmission of US Export Controlled Technical Data**

All electronic transmissions of technical data to any customer or supplier (or potential customer or supplier) shall be accomplished in full compliance of Export Compliance and only after verification of valid business agreements and Export Licenses if necessary.

5.4 **Safeguarding Technical Data**

Employees are required to safeguard all technical data in accordance with company policies and our contractual obligations.

The electronic transmission of US Export Controlled technical data, *e.g.*, telephone, fax, e-mail, internet, videoconference, or other similar means, requires the appropriate export authorization and documentation.

5.5 **Policies on Hand Carry of ITAR Controlled Hardware or Technical Data**

We discourages hand carrying of US Export Controlled hardware or technical data to a foreign country. Employees desiring to do so should consult their direct manager and their Compliance responsible in advance for instructions on hand carrying any Export Controlled hardware and technical data. The employee making the export will likely be responsible for clearing customs, as required, with the necessary documentation. Employees should allow additional processing time at the airport(s) and borders to clear customs.

It is recommended that employees do not hand carry defense articles into the United States of America, but rather work with the US business partner to secure the ATF licensing required for import into the US, and then use a freight forwarder for transport of the defense article. Special arrangements may also have to be made at the foreign port of entry to arrange customs clearance when hardware exports are involved. Most airlines require approval by the airline and possibly the captain, to carry some defense hardware onboard.

Exports of ITAR-Controlled technical data on a laptop computer no longer requires authorization as long as the data is secured on a company computer with encryption and the data will not be shared with anyone unless Export Licenses are approved.

5.6 **Controlled Technical Data on Laptop Computers**

Employees traveling to foreign countries with laptop computers with Controlled technical data on portable storage media (disks, CD's, memory stick, etc.) shall consult with their direct manager in advance to determine *must follow a procedure* license requirements if uncertain as to whether the files on the laptop would constitute an export and also refer to the company IT Instructions for more information.

5.7 **Proposals Including US Export Controlled Technical Data**

As a rule, including US Export Controlled technology in proposals should be avoided if possible. If US Export Controlled technology is required, Company employees must plan for the lead-time that will be required (minimum of 60-120 days) to obtain advanced approval from the US Department of State, unless a previously authorized license is applicable.

5.8 **Exhibits at Trade Shows**

All ITAR Controlled defense articles (including some models and mock-ups) and technical data (including brochures, videos, CD's, or by other media) other than general sales and marketing materials (see section 7), which are to be displayed at trade shows, require prior US Department of State approval. As transportation of displays and exhibits to a foreign destination will require additional time, a 60-120 day advance notice should be planned so that the authorization can be secured prior to the scheduled departure.

5.9 **Demonstrations of ITAR Material Controlled by the ITAR**

All Company employees participating in live demonstrations of ITAR hardware offsite and all staff organizing ITAR hardware used in offsite demonstrations must follow the Company Sales Process and the Company Marketing Process in the Company Management System to verify that all required US export licensing is secured prior to transport to the demonstration site.

6. **DETERMINING ITAR CONTROL JURISDICTION (CJ)**

6.1 **Standard for Control on the US Munitions List**

An item is classified on the USML and Controlled under the ITAR if it "is specially designed, developed, configured, adapted, or modified for a military application." The US Department of State has the sole authority to determine conclusively whether an item is classified on the USML.

6.1.1 Possible Exclusions

Even where an item is "specially designed" for a military application, it may be possible to have it excluded from the USML if it; has been used predominantly in civil applications; or is equivalent in performance to an item used for civil applications.

6.1.2 Presumption of ITAR Control

Unless a specific determination is made or confirmation is obtained from the US Department of State that a particular Company product with US technology is not on the USML, all of the Company products and technology with US origin technology should be presumed to be controlled under the ITAR. Where it is believed that a product should not be classified on the USML, a CJ Request will be prepared and submitted to the US Department of State. Guidelines for preparing CJ requests are available on the US Department of State's website, www.pmdtc.state.gov.

7. GUIDELINES ON MARKETING, PROPOSALS AND RE-EXPORTS OF ITAR CONTROLLED PARTS, COMPONENTS AND TECHNICAL DATA

7.1 Marketing Negotiations and Proposals

US Controlled technical data cannot be retransferred unless; a) authorization from US Department of State is obtained (either a license or an agreement), or b) an ITAR exemption applies, (consult Company Legal & Compliance for assistance with ITAR exemptions). As a rule, including ITAR Controlled technology in proposals should be avoided if possible. If ITAR Controlled technology is required, Company personnel must consult the Compliance Champion to ensure compliance with re-export regulations. The following information may be provided to prospective customers without the US Department of State's approval, license or exemption:

- Information in the "public domain".
- Basic marketing information on the function, purpose or general system descriptions of Company products.
- Information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges and universities.
- Descriptions of a product's performance characteristics, price, and probable availability for delivery.
- List of particular weapons programs and customers using Company products, provided the information is not classified nor restricted by Non-Disclosure Agreements.
- Materials and titles of processes, but only if they are publicly available as a combination. Even where the materials and production processes are published, if Company is the first to find the combination of these materials and production processes are useful together as a "recipe" for certain hardware and does not publish that fact, the combination is not in the public domain. No new or different material or process titles may be added.
- Whether a Company product passed or failed a test, without further details about test results.

7.2 Pre-License Negotiations and Agreement on Requirements

Only information that is in the public domain, otherwise outside the definition of technical data (e.g., pricing information), or subject to an ITAR exemption may be provided. No ITAR Controlled technical data may be provided without authorization from US Department of State.

The ITAR does not limit the technical data or information that may be received by Company from non-US customers which is not *ITAR Controlled*. Thus, there are no US Export Controls on the specifications or product requirements that may be received by Company during this stage from non-US customers.

7.3 Obtaining Authorization for Export from the US of ITAR Controlled Hardware and Technical Data

Exports from the US of ITAR Controlled hardware or technical data requires authorization from the US Department of State. This authorization may be in the form of an export license, a license exemption in the ITAR, or an agreement approved by the US Department of State. See ANNEX 7.

7.3.1 Applying for an ITAR Export License for Exporting from the US.

Company companies in Europe, as a non-US Person as defined by ITAR is not authorized to apply for ITAR export licenses. The US Person (company) with whom Company conducts the business agreement with must initiate and submit the DSP-5.

Generally, exports of ITAR Controlled hardware from the US are authorized on a DSP-5 Application for Permanent Export of Defense Articles and Related Technical Data, which is submitted to the US Department of State by the US Party/Person. A DSP-5, which is usually approved for a period of four years, authorizes the export from the US of hardware; it also authorizes limited exports from the US of technical data related to the hardware, e.g., instructions for use. More extensive or continuing releases of technical data are generally authorized by an ITAR agreement. A DSP-5 license cannot be used to authorize the transfer of any defense services.

Each Company must have employees who have the competence to develop and manage US export license agreements collaboratively with US business partners, which create a culture of compliance at the Company.

7.3.2 US Export License Agreements

7.3.2.1 Technical Assistance Agreements ("TAA")

Oftentimes, pre-contract discussions or negotiations related to defense articles are authorized under a TAA. Additionally, a TAA is used to cover multiple exchanges of technical data and services under a contract. A TAA is a US Export Licensing Agreement for the disclosure of US origin technical data or defense services. It does not grant a license or a right to manufacture defense articles. Certain mandatory clauses must be included in the agreement, including for IT service providers for Company. After TAAs are submitted to the US Department of State by the US Person (company) for approval and, once approved, is signed by all the parties to the agreement. Each Company should have a signatory authority for TAAs. The TAA is a US export document, originating with a US company for the regulation and export of US origin technical data and defense services. See ANNEX 7.

NOTE: As required, contact the Company Trade Compliance Director for a current list of Company IT service providers to list on such TAAs.

7.3.2.2 Manufacturing License Agreements ("MLA")

An MLA is a US export licensing agreement by which a US party grants a non-US person (foreign) authorization to manufacture US origin defense articles outside the US and authorizes the export of technical data, defense articles, or defense services under the agreement. As with TAAs, certain mandatory clauses must be included in an MLA. The proposed agreement is submitted to the US Department of State by the US Person (company) for approval and, once approved, is signed by all the parties to the agreement. Each Company should have a signatory authority for MLAs. See ANNEX 7.

7.3.2.3 Warehouse and Distribution Agreement ("WDA")

A WDA is a US export licensing agreement that authorizes the warehouse of US hardware outside the US to specific licensed entities. It also authorizes the distribution to third parties and approved End Users in approved territories. See ANNEX 7.

7.4 Working with Partners under Approved TAAs/MLAs/WDAs

7.4.1 Transfers of Technical Data

Any technical data transferred on a program or project subject to a TAA or MLA license (there is no ITAR technical data allowed on a WDA) must be within the scope of the agreement, including any limitations on an approved TAA/MLA or license, unless an ITAR exemption applies.

When additional parties are added to a program or project subject to a TAA or MLA, the agreement must be amended to include them, and the amendment must be approved by the US Department of State and signed by the new party and all existing parties.

Company employees responsible for each retransfer must have an executed ITAR Non-Disclosure Agreement on file at Company if the retransfer involves an authorized third party on an ITAR Agreement (referred to as a Sublicensee). Each Company should have a routine to; identify third parties to ITAR agreements and to issue ITAR NDAs prior to the retransfer and ensure execution and then to follow the recordkeeping requirement, including that Company must provide the fully executed ITAR NDAs to the US Party to the ITAR licensing agreement. (See ANNEX 8-10)

ITAR and EAR Controlled Technical Data: Drawings, documents and specifications should be marked as follows:

"EXPORT NOTE: The information contained in this document is subject to U.S. export control laws and regulations, including the International Traffic in Arms Regulations, 22 CFR Part 120 et seq. Any redistribution, retransfer, or re-export of this information contrary to U.S. export control regulations is prohibited."

7.4.2 Transfers of Hardware

The US Department of State must license the re-transfers of ITAR Controlled hardware, unless they are subject to an exemption. (Consult Company Legal & Compliance for assistance with ITAR exemptions).

Hardware exported in furtherance of a TAA/MLA must be authorized on a separate DSP-5, unless the TAA/MLA approval provides otherwise.

7.4.3 Compliance with License and Agreements Provisos

The US Department of State with certain provisos or conditions attached approves licenses and TAAs/MLAs/WDAs. Approval and Proviso letters from the US Department of State must be reviewed by the Company companies, in order to implement the requirements and strictly adhered to the Provisos.

Licenses and agreements have a specific period during which they are valid. If a license or agreement is still required as it nears the end of validity (within 120 days), another approval must be obtained, or the license must be amended. Export approvals for hardware have a quantity and dollar value that cannot be exceeded, as well.

To comply with ITAR license requirements, all third parties listed on the Company ITAR Agreements must have a process to identify their employees who are Dual and or Third Country Nationals, who will have access to the ITAR technology shared by the Company. If the foreign national employee is a regular employee (ITAR § 120.39) of the third party (Sublicensee) and from a country in the following nations, NATO, European Union, Australia, Japan, New Zealand and Switzerland, and all transactions with the foreign national employee

occur within the territory of NATO, EU (European Union), Australia, Japan, New Zealand and Switzerland or the United States, and the foreign national employee signs an ITAR NDA (ITAR §126.18(d)(1) through (d)(5)), or

- Pursuant to ITAR §126.18(c)(1), the third party would be compliant with the ITAR if the foreign national employee has a security clearance from the domestic authorities in the country where the third party is located, or
- If the foreign national employee doesn't have a security clearance from the domestic authorities pursuant to ITAR §126.18(c)(2), the third party must conduct a screening to evaluate if the foreign national employee has substantive contacts with restricted or prohibited countries listed in ITAR §126.1, prior to authorizing access ITAR technical data. See §126.18(c)(2) for a description of "substantive contacts". See ANNEX 4.

The third party with Dual and or Third Country National employees should provide Company with a copy of the requisite ITAR NDA or a statement that they are compliant with the ITAR.

8. **RE-EXPORTS**

8.1 **Re-exports under the ITAR**

Re-export or retransfer means the transfer of any defense article, including technical data, or defense service to any end use, end user, or destination not previously authorized. A re-export would be a transfer to another company outside of country where the Company is located, while a retransfer would be a transfer to a company located in the same country as the Company. All retransfers of US-origin technical data and defense articles on the USML requires written authorization from the US Department of State.

The US Person (company) or the Company may submit a request to the US Department of State for this retransfer authorization. The request for retransfer authorization must include the information and documentation required to support a DSP-5 Permanent Export License Application.

The Company will not participate in any such re-export or retransfer of ITAR Controlled technical data or hardware unless written authorization for the retransfer has been obtained from the US Department of State.

Retransfers to Governments within NATO, Australia, Israel, Japan, New Zealand, or the Republic of Korea. Under certain circumstances, US-origin components incorporated into non-US (foreign) defense articles may be re-exported or retransferred to the government of a NATO country, Australia, Israel, Japan, New Zealand, or the Republic of Korea without written authorization from US Department of State if the components are not SME. SME means items, which are identified by an asterisk on the USML because of their capacity for substantial military utility or capability.

- The party re-exporting the item must provide written notification to the US Department of State within 30 days of the retransfer.
- The U.S.-origin components are not major defense equipment sold under contract in the amount of \$25,000,000 (\$25 million) or more; the articles are not defense articles or defense services sold under a contract in the amount of \$100,000,000 (\$100 million) or more; and are not identified in part 121 of this subchapter as Missile Technology Control Regime (MTCR) items.

8.2 **Re-Exports for the Export Administration Regulations ('EAR')**

Re-export means an actual shipment or transmission of items subject to the EAR from one non-U.S. country to another non-U.S. country. For purposes of the EAR, the export or re-export of items subject to the EAR that will transit through a country or countries, or to be transshipped in a country or countries to a new country, or are intended for re-export to the new country, are deemed to be exports to the new country.

8.3 **Declaration for Exports**

For EAR there is no declaration required for certain exceptions, including under the De Minimis, which must be included on the Proforma/Commercial Invoice:

"These items are controlled by the U.S. Government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations".

9. **TEMPORARY IMPORTS INTO THE UNITED STATES**

9.1 **Temporary Imports**

Temporary imports into the US of any defense articles identified on the USML are subject to regulation under the ITAR. Temporary imports include: a) defense articles that are brought into the U.S. (i.e., for repair) and then returned to the country from which they were shipped, and b) any defense article that enters the US in transit to another country.

9.2 **License Requirements**

A DSP-61 license authorization must be completed with the US Person (company) prior to the temporary import into the US, unless an ITAR exemption applies. Company staff must work with their US business partner on all imports into the US, such that all approvals and documentation are authorized.

9.3 **Exemptions for Temporary Imports**

A license exemption may apply for the temporary importation into the US of a US-origin defense article if the item is brought into the US for a period of up to 4 years to be:

- a) Serviced (e.g., inspected, tested, calibrated or repaired);
- b) Incorporated into an item already approved for export; or
- c) Used for an exhibit or marketing demonstration.

10. **PERMANENT IMPORTS INTO THE UNITED STATES**

10.1 **Permanent Imports**

The permanent importation of any items listed on the USML is governed by regulations issued by the BATF. The USML can be accessed on the website for the US Department of States' Directorate of Defense Trade Controls:

https://www.pmdtcc.state.gov/regulations_laws/itar.html.

10.2 Exemptions for Permanent Imports

BATF regulations provide an exemption for the BATF permit requirement for the importation of components being manufactured under contract for the US Department of Defense. When such exemption applies, Duty Free Entry contract provisions should be pursued. The Company's US business partner must apply for and work with the Company to coordinate imports into the US.

11. ITAR COMPLIANCE WITH COMPANY VISITS

11.1 Notification

Visits to the Company must be compliant to the US export restrictions. Each visit request should be evaluated for access to export controlled hardware, software, or technical data. Foreign visitors should be screened using the Company screening tool, to ensure that visitors are not on any list for sanctions, debarment or denied. The Company screening tool can be accessed through the procurement staff at Company sites.

11.2 Escorts

A Company employee should escort any person visiting the Company facilities and in compliance with the HESS policy. Visitors should not be permitted access to production, test or design areas of Company facilities, nor exposed to products or technology, without specific internal authorization and in compliance with Export Control. Consider perimeter tours for unlicensed foreign visitors, and meeting rooms that are sanitized for Export Controlled technical data, software and hardware.

12. PROCEDURES FOR HIRING AND THE IMPACT ON ITAR COMPLIANCE

12.1 Why Hiring Can Affect ITAR

Permitting a Foreign Person to have access to ITAR Controlled software or technology, including data and hardware, is an export to that person's home country.

12.2 Immigration Status

When considering any prospective employee for temporary or permanent employment at the Company, the Director of Human Resources must determine the country of birth and country(ies) of citizenship of prospective candidates to assure ITAR compliance only when the prospective employee will have access to ITAR Controlled technology.

12.3 Licensing Requirements

Where the Company may choose to employ a foreign national (Third Country National), including a Dual National, who will have access to ITAR Controlled technical data, there are the following options for Company's compliance with the ITAR at §126.18 and access to unclassified ITAR controlled technical data:

- If the prospective foreign national employee is a regular employee (ITAR § 120.39) of Company from a country in the following nations, NATO, European Union, Australia, Japan, New Zealand and Switzerland, all transactions with the foreign national employee occur within the territory of NATO, EU (European Union), Australia, Japan, New Zealand and Switzerland or the United States, and the foreign national employee signs an ITAR NDA (ITAR §126.18(d)(1) through (d)(5)), or

- Pursuant to ITAR §126.18(c)(1), Company would be compliant with the ITAR if the foreign national employee has a security clearance from the domestic authorities where Company is located, or
- If the foreign national employee doesn't have a security clearance from the domestic authorities where Company is located, pursuant to ITAR §126.18(c)(2), the Company must conduct a screening to evaluate if the foreign national employee has substantive contacts with restricted or prohibited countries listed in ITAR §126.1, prior to authorizing access ITAR technical data. See §126.18(c)(2) for a description of "substantive contacts". See ANNEX 4.

13. **RECORDKEEPING AND RECORDS RETENTION REQUIREMENTS.**

Recordkeeping for US Export Controlled technical information is detailed at ANNEX 7, all documents relating to the re-export of defense articles, technology or services regulated by the US Department of State must be maintained for a period of five years after the expiration of the license or other approval such as a TAA, MLA or WDA.

14. **REPORTS OF NON-COMPLIANCE**

Export Compliance, including compliance with the US Export Controls are of the utmost importance to the Company. Any employee who believes that a violation of the US Export Controls has occurred or is about to occur shall report that matter to the Compliance Champion or to the Company corporate Director of Trade Compliance.

INDEX OF REVISIONS

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Section

Date

International Traffic in Arms Regulations (“ITAR”)

Agency: US Department of State
Directorate of Defense Trade Controls
2401 E Street, N.W., SA-1
Washington, D.C. 20037

Contact: (202) 663-1282
Website: www.pmdtdtc.org

Export Administration Regulations (“EAR”)

Agency: US Department of Commerce
Bureau of Industry and Security (“BIS”)
2401 E Street, N.W., SA-1
Washington, D.C. 20037

Contact: (202) 482-4811
Website: www.bis.doc.gov

Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) Regulations

Agency: US Department Treasury
Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”)
Firearms & Explosives Import Branch
244 Needy Road
Martinsburg, West Virginia 25405

Contact: (304) 616-4550
Website: www.atf.gov

UNITED STATES MUNITIONS LIST AND THE CLASSIFICATION OF COMPANY PRODUCTS AND TECHNOLOGY

US Munitions List ("USML"): The USML is found in the United States Code of Federal Regulations (CFR) at 22 CFR Part 121. Many Company products and technologies are included in the USML categories. The USML is structured into main categories with extensive sub-category descriptions and definitions, including numerous products, components, materials and technical data. The USML categories are as follows:

Category	Title
I	Firearms and related articles
II	Guns and Armament
III	Ammunition and Ordnance
IV	Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines
V	Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents
VI	Surface Vessels of War and Special Naval Equipment
VII	Ground Vehicles
VIII	Aircraft and Related Articles
IX	Military Training Equipment and Training
X	Personal Protective Equipment
XI	Military Electronics
XII	Fire Control/Laser/Imaging/Guidance Equipment
XIII	Materials and Miscellaneous Articles
XIV	Toxicological Agents, Including Chemical Agents, Biological Agents and Associated Equipment
XV	Spacecraft and Related Articles
XVI	Nuclear Weapons Related Articles
XVII	Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
XVIII	Directed Energy Weapons
XIX	Gas Turbine Engines and Associated Equipment
XX	Submersible Vessels and Related Articles
XXI	Articles, Technical Data, and Defense Services not Otherwise Enumerated

GUIDELINES ON TECHNICAL DATA AND PUBLIC DOMAIN EXEMPTION

NOTE: Special care should be exercised in self-classifying any technical data as falling within the public domain. The US Department of State traditionally has viewed the ITAR's public domain exemption very narrowly. Where information may be ambiguous or may fall within a gray area, consult the Company Legal & Compliance staff, before determining that use of the public domain exemption is appropriate. Moreover, all US Government contracts (both prime and subcontracts) include restrictions regarding the release and disclosure of product and contract information. These restrictions are included in US Federal Acquisition Regulations ("FAR") and the Defense Federal Acquisition Regulations Supplement ("DFARS") provisions, and in some cases, the contract's Security Classification Guidelines. Generally, these provisions require the approval of the US Government and/or customer prior to the release or disclosure of information into the Public Domain. Specific contract restrictions must be reviewed prior to the release of information.

As a Special Note, the US Department of Defense cyber security protocol, the 'Cybersecurity Maturity Model Certification' of 'CMMC' is flowed to the Company companies in specific contracts which are US Government funded and is found in the DFARS 252.204-7019, -7020, -7021.

Technical Data

Information that is "required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification" of a defense article. ITAR Controlled technical data may be in the form of blueprints, drawings, photographs, plans, instructions or other documentation.

Information that is Technical Data

The following categories of data, among other things, are included within the ITAR's definition of technical data:

- a. Manufacturing Know-how
- b. Design Methodology
- c. Engineering Analyses
- d. Basic Research
- e. Build-to-Print Data
- f. Build/Design-to-Specification

Information that is NOT Technical Data

Three categories of information *are not* included in the ITAR's definition of technical data and, therefore, are not subject to regulation under the ITAR:

- a. Information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges or universities.
- b. Basic marketing information on function, purpose, or general system description of a defense item.
- c. Information that is in the "public domain," meaning that the information is already published and is generally accessible or available to the public.

Public Domain

Under the ITAR, information is deemed to be in the “public domain” if it is available through:

- a. Sales at newsstands and bookstores;
- b. Subscriptions without restrictions to any individual;
- c. Libraries open to the public;
- d. Patents available at any patent office;
- e. Open, unlimited distribution at a conference, meeting, trade show or exhibition that is accessible to the public;
- f. Public release in any form after approval by the cognizant US Government agency, i.e. see contract restrictions in Tab notes; or
- g. Fundamental research in science and engineering at an accredited institution of higher learning in the US where the resulting information is published and shared broadly in the scientific community. Fundamental research does not include research the results of which are restricted due to proprietary reasons or to specific US Government access and distribution controls.

Guidelines for classifying information as being in the *Public Domain*

In determining whether specific information is eligible for the ‘public domain’ exemption under the ITAR, the following guidelines should be applied:

- a. Where information is determined to be releasable under the ‘public domain’ exemption, that determination should be carefully and specifically documented in Company records (e.g., title, author, and publisher of a book with copies of the relevant pages).
- b. Where information is determined to be releasable under the ‘public domain’ exemption, that determination should be carefully and specifically documented in Company records (e.g., title, author, and publisher of a book with copies of the relevant pages).
- c. If certain technical information is not something that the Company would be willing to release, without a moment’s hesitation, to its strongest competitor, then that information likely is not within the public domain as defined by the ITAR.
- d. Where certain information may be ambiguous or may fall within a gray area, consult the Company Legal & Compliance staff, before determining that use of the public domain exemption is appropriate.

Release of Technical Information into the Public Domain

When a public domain exemption is not available, the following procedure shall be followed prior to the release of technical information into the ‘public domain’.

- a. The public release of technical information includes all releases, including but not limited to: product brochures; promotional or marketing materials (such as CD’s, videos, product advertisements, trade show exhibits and displays, models and mock-ups, Internet site postings, presentations, briefings and other communications regarding Company products, services, or capabilities); engineering technical or white papers presented at symposiums or other forums; and certain types of press or news releases. Prior to releasing any technical data or information into the public domain, Company should:

- 1) Review the technical information for possible ITAR exemption.
 - 2) Review the applicable contract for public disclosure provisions and/or restrictions.
 - 3) Proceed to obtain the appropriate DOD office approval through the cognizant Procurement or Program office as necessary. Alternatively, if the technical information is not covered by an existing contract, the request for approval shall be submitted to the Directorate for Freedom of Information and Security Review (DFOISR).
 - 4) Proceed with the application for US Department of State authorization, when applicable.
- b. Upon receipt of the release approval or authorization, or denial, the Company should:
- 1) Provide a copy to the requestor, including any restrictions or conditions.
 - 2) Retain a copy of the approval, or denial, in the appropriate files.

ITAR SCREENING OF EMPLOYEES AS REQUIRED BY ITAR § 126.18

Only bona fide regular employees of the Company who are nationals exclusively of countries that are members of NATO, the European Union, Australia, Japan, New Zealand, or Switzerland may have access to non-classified ITAR technical data and or hardware and the transfer must take place in the country where the Company entity is located or the territory specified on the ITAR Agreement. This includes dual and third country national employees of the Company. **The full text of ITAR § 126.18 is below in Section I.**

Employees of the Company who do not meet this requirement, who have a nationality or dual nationality from countries outside of the territory listed above, must have either national security clearance or must be screened by the Company according to the ITAR, for the employee to have access to the non-classified ITAR technical data and or hardware. After the screening process conducted by the Company, the employee must sign an ITAR NDA, which must be archived at the Company, and in accordance with Section I below. **The US Department of State's Guidance for the screening is in Section II below.**

Section I:

ITAR § 126.18: Exemptions regarding intra-company, intra-organization, and intra-governmental transfers to employees who are dual nationals or third-country nationals.

(a) Subject to the requirements of paragraphs (b) and (c) of this section and notwithstanding any other provisions of this part, and where the exemption provided in paragraph (d) of this section cannot be implemented because of applicable domestic laws, no approval is needed from the Directorate of Defense Trade Controls (DDTC) for the transfer of unclassified defense articles, which includes technical data (see § 120.6), to or within a foreign business entity, foreign governmental entity, or international organization that is an authorized end-user or consignee (including approved sub-licensees) for those defense articles, including the transfer to dual nationals or third-country nationals who are bona fide regular employees, directly employed by the foreign consignee or end-user. The transfer of defense articles pursuant to this section must take place completely within the physical territory of the country where the end-user is located, where the governmental entity or international organization conducts official business, or where the consignee operates, and be within the scope of an approved export license, other export authorization, or license exemption.

(b) The provisions of § 127.1(b) are applicable to any transfer under this section. As a condition of transferring to foreign person employees described in paragraph (a) of this section any defense article under this provision, any foreign business entity, foreign governmental entity, or international organization, as a "foreign person" within the meaning of § 120.16, that receives a defense article, must have effective procedures to prevent diversion to destinations, entities, or for purposes other than those authorized by the applicable export license or other authorization (e.g., written approval or exemption) in order to comply with the applicable provisions of the Arms Export Control Act and the ITAR.

(c) The end-user or consignee may satisfy the condition in paragraph (b) of this section, prior to transferring defense articles, by requiring:

(1) A security clearance approved by the host nation government for its employees, or

(2) The end-user or consignee to have in place a process to screen its employees and to have executed a Non-Disclosure Agreement that provides assurances that the employee will

not transfer any defense articles to persons or entities unless specifically authorized by the consignee or end-user. The end-user or consignee must screen its employees for substantive contacts with restricted or prohibited countries listed in § 126.1. Substantive contacts include regular travel to such countries, recent or continuing contact with agents, brokers, and nationals of such countries, continued demonstrated allegiance to such countries, maintenance of business relationships with persons from such countries, maintenance of a residence in such countries, receiving salary or other continuing monetary compensation from such countries, or acts otherwise indicating a risk of diversion. Although nationality does not, in and of itself, prohibit access to defense articles, an employee who has substantive contacts with persons from countries listed in § 126.1(d)(1) shall be presumed to raise a risk of diversion, unless DDTC determines otherwise. End-users and consignees must maintain a technology security/clearance plan that includes procedures for screening employees for such substantive contacts and maintain records of such screening for five years. The technology security/clearance plan and screening records shall be made available to DDTC or its agents for civil and criminal law enforcement purposes upon request.

(d) Notwithstanding any other provisions of this subchapter, no approval is needed from the Directorate of Defense Trade Controls (DDTC) for the reexport of unclassified defense articles or defense services to individuals who are dual national or third-country national employees of a foreign business entity, foreign governmental entity, or international organization, that is an authorized end-user, foreign signatory, or consignee (including approved sub-licensees) for those defense articles or defense services, when such individuals are:

(1) Regular employees of the foreign business entity, foreign governmental entity, or international organization;

(2) Nationals exclusively of countries that are members of NATO, the European Union, Australia, Japan, New Zealand, or Switzerland;

(3) Within the physical territories of the countries listed in paragraph (d)(2) of this section or the United States during the reexport;

(4) Signatory to a Non-Disclosure Agreement, unless their employer is a signatory or sublicensee to an agreement under § 124.1 authorizing those defense articles or defense services; and

(5) Not the recipient of any permanent transfer of hardware.

[76 FR 28177, May 16, 2011, as amended at 81 FR 35617, June 3, 2016; 81 FR 62008, Sept. 8, 2016; 81 FR 66807, Sept. 29, 2016]

Section II:

US Department of State's Guidance for the screening of Dual and or Third Country Nationals from outside of NATO, the European Union, Australia, Japan, New Zealand, or Switzerland

IMPLEMENTATION CONSIDERATIONS: Dual/Third National Rule Before using the exemptions in §126.18 of the International Traffic in Arms Regulations (ITAR) (22 C.F.R. Parts 120-130) regarding dual and third country national employees some consideration should be given to the following matters to prevent diversion of ITAR-controlled defense articles, including technical data, to unauthorized end-users and end-uses:

- a) ITAR compliance program with implementing policies and procedures.
- b) Empowered and experienced individuals responsible for implementation and oversight of the plan.
- c) Record-keeping. The company should have processes and procedures in place to ensure that all records are maintained as required for no less than five years.
- d) Employee training and education in the ITAR and the compliance program.
- e) Specialized training of key personnel (e.g., human resources).
- f) Employee screening to determine general bona fides and identify any diversion risk of ITAR-controlled defense articles, including technical data. The individual's history of trustworthiness, reliability, and adherence to company rules/policies is relevant, in addition to answers to questions regarding substantive contacts. Use of publicly available information and government-sponsored controls list is encouraged. See sample questionnaire below.
- g) Non-Disclosure Agreement (NDA) with the employee as a condition of continued employment. The NDA is for individuals with access to ITAR controlled technical data related to defense articles on the U.S. Munitions List. The employee agrees that such controlled technical data will not be further disclosed, exported or transferred in any manner not authorized or approved by the U.S. Government. The NDA will also contain an acknowledgement that the individual does not work for or on behalf of any country subject to §126.1 of the ITAR and that the individual will report promptly any approach or inquiry from any such country or its representatives. *See sample NDA at the end of Section II.*

The following terms provide further information when considering utilizing the exemptions in §126.18:

1) Substantive contacts. Contacts contemplated are relationships with individuals that pose a risk of diversion of ITAR-controlled defense articles, including technical data. The most fundamental requirement is full disclosure of all substantive contacts. Contacts with individuals from countries listed in §126.1 of the ITAR (e.g., Iran, North Korea, People's Republic of China) are of concern, but so too can be contacts with individuals from other countries with a pattern of diverting defense articles. Mere contact with an individual is not necessarily a disqualifier, but rather the nature and substance of the contact must be

evaluated to determine the risk of diversion. Licensed foreign parties (companies, organizations and governments) should assess contacts in detail, especially those described below:

a) Contacts with Government or Military Officials, Agents, or Proxies. These may range from contact with local customs officials at a port of entry to active collaboration with foreign agents for purposes of circumventing export control laws and regulations.

b) Business contacts. These can be associations between two businesses or between an individual and a business. Consider the nature of the contact. Did it begin recently or has it been sustained? Is the business a legitimate enterprise, a "paper" company or a front company? Can it be confirmed independently? Is there any evidence the business in question attempts to acquire sensitive technologies from other sources for itself or for purposes of diversion?

c) Family contacts. What is the nature of the family relationship? What other activity (e.g., government, business or other employment, association or organization) is the second family member engaged in that would pose a risk of diversion?

d) Non-family contacts. These contacts include friendships and other associations. The most offensive would be with individuals acquiring and selling defense articles for profit or monetary gain, individuals who work for or with front companies, individuals assisting terrorist organizations, individuals working for criminal organizations, or others with the intent of circumventing export controls.

e) Continuing connections to a third country. Citizenship, particularly one that cannot be renounced, is not necessarily a disqualifier. An affinity, loyalty, or allegiance to interests of a third country or its government may cause an individual to breach rules or release proprietary or controlled articles or technology without authorization. The totality of continuing connections to the country should be considered. These connections include, among other things, carrying a passport of that country, casting ballots for elections in that country, currently or previously holding an official position within that country, and prior employment with the government of that country. For instance, an active or prior contractual relationship or employment with the government of an ITAR §126.1(a) country would generally disqualify an employee from access to ITAR controlled defense articles and technical data.

f) Frequent Travel. It may be an indicator of relationships with nationals of that country which pose a risk of diversion. Travel may be innocuous or a cover for diversionary activities.

g) Maintaining a residence in a third country. Maintaining a residence is not necessarily a disqualifier, but the circumstances of ownership and the potential for a broader connection to the country should be considered.

2) Bona fide, full-time regular employee. Employees qualify if they have a full-time employment relationship with the company and the company is legally responsible for the employee's actions. See §120.39 of the ITAR for the definition of a regular employee.

Sample Questionnaire

- a) How often and where do you travel outside (country of employment) for purposes other than employment with this company?
- b) Do you hold/use a passport from another country?
- c) Do you maintain a residence in another country?
- d) Do you have business contacts, business partners, business contracts, brokers, or any other relationship with a business in another country or other countries subject to U.S. or U.N. embargo?
- e) Do you have contact with family members that work for or with the government of another country? If so, what is their relationship with the government?
- f) Do you have contacts with any other individuals or groups involved in acquiring controlled defense articles, including technical data, illegally or otherwise circumventing export control laws? Please explain the nature of that contact.
- g) Do you hold any office, position, appointment, or any other relationship with the government of another country?
- h) Do you receive a salary, compensation, or any payment from any source (e.g., government, business, other organization or individual) in another country?
- i) Do you have contacts with agents from another country or another country's government?
- j) Have you ever served in or provided information to the government of another country (e.g., military, foreign ministry, intelligence agency or law enforcement)?
- k) Is there any aspect of your overall relationship to another country that would cause you to violate company rules or release ITAR-controlled defense articles, including technical data, without authorization?
- l) Have you ever been approached or asked, directly or indirectly, to provide any ITAR-controlled defense article, including technical data, without authorization?
- m) Have you ever sold or been provided any ITAR-controlled defense articles, including technical data, of the company or any former employer without authority?
- n) Have you fully and completely disclosed all contacts with foreign persons, groups, associations, businesses and governments?
- o) Have you provided fully and truthfully all your contact information to the company, including any addresses, cellular telephone numbers, electronic mail addresses and social networking addresses?
- p) Will you report promptly to the company security officer inquiries or efforts by others in any manner to acquire export controlled defense articles, including technical data, without a license or other authorization?
- q) Have you answered all questions above fully, honestly and faithfully?

Sample Non-Disclosure Agreement (NDA)

I, _____, acknowledge and understand that any technical data related to defense articles on the U.S. Munitions List and proprietary data that I will have access to or which is disclosed to me by (employer's name) are subject to control under United States law (the International Traffic in Arms Regulations (the "ITAR")).

I hereby certify that such controlled technical data will not be further disclosed, exported, or transferred in any manner not authorized under the ITAR, except with the prior written approval of the U.S. Department of State and [employer's name].

I certify that I will report promptly to [employer's name] and its security and export control officers any inquiry or request to provide controlled technical or proprietary data to any third person without authority.

I further certify that I have never acted for, represented, or provided information to and do not currently act for, represent, or provide information to any country or person acting on its behalf that is subject to Section 126.1 of the ITAR, including but not limited to Iran, Syria, North Korea, Sudan, China, Burma, Cuba, or Libya, or any entity that is owned or controlled by such country.

Furthermore, I certify that I understand and will comply with the notification requirements of Section 126.1(e) of the ITAR or any other law. I make this certification voluntarily and understand and agree that it may be provided to the government of [employer's location] and the United States which have an interest in ensuring that controlled defense articles and technical data are not provided or transferred to persons without authority.

Signature & Printed Name & Address

COMPANY VISIT PROTOCOL

Each Company employee should comply with their localized policy and procedures for visitors to Company. If the visit will involve transfers of US origin ITAR Controlled technical data or visual review of production activities, which are ITAR Controlled, or access to ITAR materials, the visit must have authorization from the US Department of State via an appropriate license, i.e. DSP-5, TAA, WDA and MLA.

Procedure:

1. A Company employee familiar with the ITAR should host company visits by foreign persons.
2. The Company host responsible for coordinating the company visit shall complete the Visitor Request Process for their Company site at the earliest possible date.
3. The Company host responsible for coordinating the company visit will verify with appropriate staff whether the visit requires authorization from the US Department of State due to retransfer, and if the authorization is on file at the Company.

RECORDS RETENTION REQUIREMENTS

Retransfer Records Retention Policy

Re-export records shall be retained for a period of five years from the expiration of the license or other approval such as a TAA, WDA or MLA.

Records relating to the retransfer of any technical data under any license exemption shall also be maintained for a period of five years from the date of the transfer. These records shall include a description of the data, the name of the end-user, the date of the transfer, and the method of transmission.

Additional Records Retention Policy

Any recordkeeping requirements that may be specified in any TAA, WDA or MLA or Proviso Letter to any re-export authorization are also monitored and adhered to. Including but not limited to ITAR NDAs.

Export and import licenses (DSP-5, DSP-61, DSP-73, DSP-83, DSP-85, DSP-119, and ATF Form 6) must also be maintained.

ITAR EXPORT/IMPORT LICENSE & AGREEMENT PREPARATION AND SUBMITTAL PROCEDURES/REQUIREMENTS

ITAR Re-Export License applications and Technical Assistance Agreements, Warehouse Distribution Agreements or Manufacturing License Agreements, shall be prepared in accordance with the following procedures.

US Department of State Export and Import Licenses (includes Re-Export):

US Department of State forms DSP-5, DSP-61, DSP-73, DSP-83, DSP-85 and DSP-119 shall be submitted in accordance with current US Department of State Instructions and Guidelines, as published by US Department of State and maintained on the website, https://www.pmddtc.state.gov/ddtc_public. **Some forms may only be submitted by a US Party.** Consult the Company Compliance Officer or the Company Corporate Legal & Compliance staff and the US Department of State website for clarity.

US Department of State Technical Assistance, Warehouse and Distribution Agreements and Manufacturing License Agreements:

TAA, WDAs and MLAs must be submitted by a registered US Party/Person. TAAs, WDAs and MLAs, and amendments thereto, shall be prepared and submitted in accordance with US Department of State's "Agreements: Guidelines for Preparing" on the website https://www.pmddtc.state.gov/ddtc_public. Draft TAAs, WDAs, and MLA's and amendments must follow the prescribed format and content as reflected in these guidelines. TAAs, WDAs and MLAs are to exclude business terms, conditions, and arrangements associated with the agreements. Separate commercial agreements may be needed to address specific business arrangements with the foreign entity or person. Commercial business agreements are not submitted to US Department of State for approval. These agreements are subordinate to, and conditioned upon, US Department of State approval of the TAA, WDA or MLA. Submissions of TAAs, WDAs and MLAs (with the prescribed number of copies) and supporting documents, shall be submitted electronically by the US Party to US Department of State.

The following table summarizes the types of ITAR export licenses and their applicability.

License Title	Use/Applicability	Submission Requirements
DSP-5 Permanent Export License for Export from the US.	<ul style="list-style-type: none"> - For the permanent export of unclassified defense articles (hardware) and related technical data from the US. - Used for single (1 time) exports of unclassified technical data. For multiple technical data exports or transfers, TAA, WDA, MLA required. 	Submittal requirements: <ul style="list-style-type: none"> - Form DSP-5 Application - Transmittal letter of explanation - Empowered Officials Letter - Descriptive data and/or technical data - Purchase order or letter of intent - DSP-83 Non-transfer & Use Certificate (for SME only) - Also see ANNEX 6 Instructions

<p>DSP-61</p> <p>Temporary Import of Unclassified Defense Articles into the US.</p>	<p>- For the temporary import, and subsequent export or return to the same country, of unclassified defense articles (hardware). Temporary imports of unclassified defense articles in transit to a third country.</p>	<p>Submittal requirements:</p> <ul style="list-style-type: none"> - Form DSP-61 Application - Transmittal letter of explanation - Empowered Officials Letter
<p>DSP-73</p> <p>Temporary Export from the US of Unclassified Defense Articles.</p>	<p>- For the temporary export and subsequent return to the U.S., of unclassified defense articles (hardware). Also used for bailments, demos, or trade show exhibitions.</p>	<p>Submittal requirements:</p> <ul style="list-style-type: none"> - Form DSP-73 Application - Transmittal letter of explanation - Empowered Officials Letter - Descriptive data and/or technical data - Purchase order or letter of intent - DSP-83 Non-transfer & Use Certificate (for SME only)
<p>DSP-83</p> <p>Non-transfer and Use Certificate</p>	<p>- Required for any export transaction from the US involving Significant Military Equipment (SME). Utilized in conjunction with DSP-5, DSP-73, DSP-85, TAA, WDA and MLA submissions and executions, as required.</p>	<p>Submittal requirements:</p> <ul style="list-style-type: none"> - Form DSP-83 executed by the foreign consignee, foreign end-user and the applicant
<p>DSP-85</p> <p>Permanent or Temporary Export from the US or Temporary Import into the US of Classified Defense Articles and related Classified Technical Data</p>	<p>- For the permanent or temporary export from the US or temporary import into the US of classified defense articles and related technical data. Includes defense articles and technical data classified by a foreign government (non-US) or pursuant to an Executive Order or other legal authority.</p>	<p>Submittal requirements:</p> <ul style="list-style-type: none"> - Form DSP-85 Application - Form DSP-83 - Transmittal letter of explanation - Empowered Officials Letter - Descriptive data and/or technical data. Only one copy to be submitted and in accordance with the Defense Industrial Security Manual procedures - Purchase order or letter of intent - A bond may be required - Transmittal must comply with NISPOM requirements. Certification is required

<p>DSP-119</p> <p>Amendment to License</p>	<p>- Utilized to amend previously approved export and import licenses. Some restrictions apply.</p>	<p>Submittal requirements:</p> <ul style="list-style-type: none"> - Form DSP-119 Application - Previously approved license and supporting documentation regarding amendment
<p>TAA</p> <p>Technical Assistance Agreement</p>	<p>- Used for the exchanges of technical data or performance of defense services. Used either prior to or during the performance of a contract. Does not authorize foreign party (non-US) to manufacture defense articles abroad.</p>	<p>Submittal requirements from the Non-US Company:</p> <ul style="list-style-type: none"> - Review of the Proposed draft of the Technical Assistance Agreement to the US Party, including descriptive data and/or technical data in the Statement/Scope of Work - DSP-83 Non-transfer & Use Certificate (for SME only) - List of Sublicensees who will receive a retransfer/reexport of US ITAR technology.
<p>MLA</p> <p>Manufacturing License Agreement</p>	<p>-In addition to the scope of the TAA, it is used for the exchange of US origin manufacturing know-how from US Parties to the Non-US Company Parties with the authorization for manufacturing.</p>	<p>Submittal requirements from the Non-US Company:</p> <ul style="list-style-type: none"> - Review of the Proposed draft of the Technical Assistance Agreement to the US Party, including descriptive data and/or technical data in the Statement/Scope of Work - DSP-83 Non-transfer & Use Certificate (for SME only) - List of Sublicensees who will receive a retransfer/reexport of US ITAR technology.
<p>WDA</p> <p>Warehouse and Distribution Agreement</p>	<p>- Used for Non-US Company companies to purchase ITAR material for Warehousing at their Company site, and</p> <p>- To Distribute the ITAR material to a pre-approved list of third parties (Sublicensees), Customers and End Users in a pre-approved territory.</p>	<p>Submittal requirements from the Non-US Company:</p> <ul style="list-style-type: none"> - Review of the Proposed draft of the Technical Assistance Agreement to the US Party, including descriptive data and/or technical data in the Statement/Scope of Work - DSP-83 Non-transfer & Use Certificate (for SME only) - List of Sublicensees who will receive a retransfer/reexport of US ITAR technology.

ITAR NON-DISCLOSURE AGREEMENT (NDA) FOR TAA

Access to International Traffic in Arms Regulations (ITAR) Controlled Technology
Sub-licensee of Technical Assistance Agreement (TAA)

Objective

(INSERT SUB-LICENSEE COMPANY NAME HERE) acknowledge and understand that any Technical Data related to Defense Articles on the U.S. Munitions List, to which **(INSERT SUB-LICENSEE COMPANY NAME HERE)** has access to or which is disclosed to **(INSERT SUB-LICENSEE COMPANY NAME HERE)** under this license by **Company (INSERT COMPANY NAME)** is subject to export control under the International Traffic in Arms Regulations (ITAR) (Title 22 Code of Federal Regulations, parts 120-130). **(INSERT SUB-LICENSEE COMPANY NAME HERE)** hereby certifies that such data will not be further disclosed, exported or transferred in any manner, to any other foreign national or any foreign country without the prior written approval of the Office of Defense Trade Controls Licensing, US Department of State.

Required ITAR Clauses

§ 124.8 (1). This authorization shall not enter into force, and shall not be amended or extended, without the prior written approval of the Department of State of the U.S. Government.

§ 124.8 (2). This authorization is subject to all United States laws and regulations relating to exports and to all administrative acts of the U.S. Government pursuant to such laws and regulations.

§ 124.8 (3). The Parties to this authorization agree that the obligations contained in this authorization shall not affect the performance of any obligations created by prior contracts or subcontracts which the parties may have individually or collectively with the U.S. Government.

§ 124.8 (4). No liability will be incurred by or attributed to the U.S. Government in connection with any possible infringement of privately owned patent or proprietary rights, either domestic or foreign, by reason of the U.S. Government's approval of this authorization.

§ 124.8 (5). The Technical Data or Defense Service exported from the United States in furtherance of this authorization and any Defense Article which may be produced or manufactured from such Technical Data or Defense Service may not be transferred to a foreign person except pursuant to §§124.16 and 126.18, as specifically authorized in this agreement, or where prior written approval of the Department of State has been obtained.

§ 124.8 (6). All provisions in this authorization that refer to the U.S. Government and the Department of State will remain binding on the Parties after the termination of the authorization.

Sublicensees with Contract Employees

Contract employees to any Party to the Agreement hired through a staffing agency or other contract employee provider shall be treated as employees of the Party, and that Party is legally responsible for the employees' actions with regard to transfer of ITAR controlled Defense Articles to include Technical Data, and Defense Services. Transfers to the parent

company by any contract employees are not authorized. The Party is further responsible for certifying that each employee is individually aware of their responsibility with regard to the proper handling of ITAR controlled Defense Articles, Technical Data, and Defense Services.

Signature of Sublicensee Company Representative

Printed Name

Date

ITAR NON-DISCLOSURE AGREEMENT (NDA) FOR MLA

Access to International Traffic in Arms Regulations (ITAR) Controlled Technology
Sub-licensee of Manufacturing License Agreement (MLA)

(ENTER MANUFACTURING AGREEMENT NUMBER HERE)

Objective

(INSERT SUB-LICENSEE COMPANY NAME HERE) acknowledge and understand that any Technical Data related to Defense Articles on the U.S. Munitions List, to which **(INSERT SUB-LICENSEE COMPANY NAME HERE)** has access to or which is disclosed to **(INSERT SUB-LICENSEE COMPANY NAME HERE)** under this license by **Company (INSERT COMPANY NAME)** is subject to export control under the International Traffic in Arms Regulations (ITAR) (Title 22 Code of Federal Regulations, parts 120-130). **(INSERT SUB-LICENSEE COMPANY NAME HERE)** hereby certifies that such data will not be further disclosed, exported or transferred in any manner, to any other foreign national or any foreign country without the prior written approval of the Office of Defense Trade Controls Licensing, US Department of State.

Required ITAR Clauses

§ 124.8 (1). This authorization shall not enter into force, and shall not be amended or extended, without the prior written approval of the Department of State of the U.S. Government.

§ 124.8 (2). This authorization is subject to all United States laws and regulations relating to exports and to all administrative acts of the U.S. Government pursuant to such laws and regulations.

§ 124.8 (3). The Parties to this authorization agree that the obligations contained in this authorization shall not affect the performance of any obligations created by prior contracts or subcontracts which the parties may have individually or collectively with the U.S. Government.

§ 124.8 (4). No liability will be incurred by or attributed to the U.S. Government in connection with any possible infringement of privately owned patent or proprietary rights, either domestic or foreign, by reason of the U.S. Government's approval of this authorization.

§ 124.8 (5). The Technical Data or Defense Service exported from the United States in furtherance of this authorization and any Defense Article which may be produced or manufactured from such Technical Data or Defense Service may not be transferred to a foreign person except pursuant to §§124.16 and 126.18, as specifically authorized in this agreement, or where prior written approval of the Department of State has been obtained.

§ 124.8 (6). All provisions in this authorization that refer to the U.S. Government and the Department of State will remain binding on the Parties after the termination of the authorization.

§ 124.9(a) (1). No export, sale, transfer, or other disposition of the Licensed Article is authorized to any country outside the territory wherein manufacture or sale is herein licensed without the prior written approval of the U.S. Government unless otherwise exempted by the U.S. Government. Sales or other transfers of the Licensed Article shall be limited to

governments of countries wherein manufacture or sale is hereby licensed and to private entities seeking to procure the Licensed Article pursuant to a contract with any such government unless the prior written approval of the U.S. Government is obtained.

§ 124.9(a) (2). It is agreed that sales by Licensee or its Sublicensees under contracts made through the U.S. Government will not include either charges for patent rights in which the U.S. Government holds a royalty-free license, or charges for data which the U.S. Government has a right to use and disclose to others, which are in the public domain, or which the U.S. Government has acquired or is entitled to acquire without restrictions upon their use and disclosure to others.

§ 124.9(a) (3). If the U.S. Government is obligated or becomes obligated to pay to the Licensor royalties, fees, or other charges for the use of Technical Data or patents which are involved in the manufacture, use, sale of any Licensed Article, any royalties, fees or other charges in connection with purchases of such Licensed Article from Licensee or its Sublicensees with funds derived through the U.S. Government may not exceed the total amount the U.S. Government would have been obligated to pay the Licensor directly.

§ 124.9(a) (4). If the U.S. Government has made financial or other contributions to the design and development of any Licensed Article, any charges for technical assistance or know-how relating to the item in connection with purchases of such articles from Licensee or Sub-licensees with funds derived through the U.S. Government must be proportionately reduced to reflect the U.S. Government contributions, and subject to the provisions of paragraphs (a) (2) and (3) of this section, no other royalties, or fees or other charges may be assessed against the U.S. Government funded purchases of such articles. However, charges may be made for reasonable reproduction, handling, mailing, or similar administrative costs incident to the furnishing of such data.

§ 124.9(a) (5). The Parties to this authorization agree that an annual report of sales or other transfers pursuant to this authorization of the Licensed Articles, by quantity, type, U.S. Dollar value, and purchaser or recipient, shall be provided by (applicant or licensee) to the Department of State.

(Licensee) agrees to incorporate the following statement as an integral provision of a contract, invoice or other appropriate document whenever the licensed articles are sold or otherwise transferred, *ITAR Section 124.9(a) (6)*: "These items are controlled by the U.S. government and authorized for export only to the country of ultimate destination for use by the ultimate consignee or end-user(s) herein identified. They may not be resold, transferred, or otherwise disposed of, to any other country or to any person other than the authorized ultimate consignee or end-user(s), either in their original form or after being incorporated into other items, without first obtaining approval from the U.S. government or as otherwise authorized by U.S. law and regulations."

For Sublicensees on MLAs involving the Manufacturing of SME

§ 124.9 (b) (1). A completed Non-Transfer and use certificate (DSP-83) must be executed by the foreign end-user and submitted to the Department of State of the United States before any transfer may take place.

§ 124.9 (b) (2). The prior written approval of the U.S. Government must be obtained before entering into a commitment for the transfer of the licensed article by sale or otherwise to any person or government outside of the approved sales territory.

Sublicensees with Contract Employees

Contract employees to any Party to the Agreement hired through a staffing agency or other contract employee provider shall be treated as employees of the Party, and that Party is legally responsible for the employees' actions with regard to transfer of ITAR controlled Defense Articles to include Technical Data, and Defense Services. Transfers to the parent company by any contract employees are not authorized. The Party is further responsible for certifying that each employee is individually aware of their responsibility with regard to the proper handling of ITAR controlled Defense Articles, Technical Data, and Defense Services.

Signature of Sublicensee Company Representative

Printed Name

Date

ITAR NON-DISCLOSURE AGREEMENT (NDA) FOR WDA

Access to International Traffic in Arms Regulations (ITAR) Controlled Technology
Foreign Intermediary of Warehouse Distribution Agreement (WDA)
(ENTER WAREHOUSE DISTRIBUTION AGREEMENT NUMBER HERE)

Objective

(INSERT INTEGRATOR/INTERMEDIARY NAME HERE) acknowledge and understand that any Technical Data related to Defense Articles on the U.S. Munitions List, to which **(INSERT INTEGRATOR/INTERMEDIARY NAME HERE)** has access to or which is disclosed to **(INSERT INTEGRATOR/INTERMEDIARY NAME HERE)** under this license by **Company (INSERT COMPANY NAME)** is subject to export control under the International Traffic in Arms Regulations (ITAR) (Title 22 Code of Federal Regulations, parts 120-130). **(INSERT INTEGRATOR/INTERMEDIARY NAME HERE)** hereby certifies that such data will not be further disclosed, exported or transferred in any manner, to any other foreign national or any foreign country without the prior written approval of the Office of Defense Trade Controls Licensing, US Department of State.

Required ITAR Clauses

§ 124.14(c)(1). This agreement shall not enter into force, and may not be amended or extended without the prior written approval of the Department of State of the U.S. government.

§ 124.14(c)(2). This agreement is subject to all United States laws and regulations related to exports and to all administrative acts of the U.S. government pursuant to such laws and regulations.

§ 124.14(c)(3). The parties to this agreement agree that the obligations contained in this agreement shall not affect the performance of any obligations created by prior contracts or subcontracts which the parties may have individually or collectively with the U.S. government.

§ 124.14(c)(4). No liability will be incurred by or attributed to the U.S. government in connection with any possible infringement of privately owned patent or proprietary rights, either domestic or foreign, by reason of the U.S. government's approval of this agreement.

§ 124.14(c)(5). No export, sale, transfer or other disposition of the defense articles covered by this agreement is authorized to any country outside the distribution territory without the prior written approval of the Office of Defense Trade Controls of the U.S. Department of State.

§ 124.14(c)(6). The parties to this agreement agree that an annual report of sales or other transfers pursuant to this agreement of the licensed articles, by quantity, type, U.S. dollar value, and purchaser or recipient, shall be provided by (applicant or licensee) to the Department of State.

§ 124.14(c)(7). **Company (INSERT COMPANY NAME)** agrees to incorporate the following statement as an integral provision of a contract, invoice, or other appropriate document whenever the articles covered by this agreement are sold or otherwise transferred: "These commodities are authorized for export by the U.S. government only to (country of ultimate

destination or approved sales territory). They may not be resold, diverted, transferred, transshipped, or otherwise be disposed of in any other country, either in their original form or after being incorporated through an intermediate process into other end-items, without the prior written approval of the U.S. Department of State.”

§ 124.14(c)(8). All provisions in this agreement which refer to the United States government and the Department of State will remain binding on the parties after the termination of the agreement.

§ 124.14(c)(9). Sales or other transfers of the licensed article shall be limited to the governments of the countries in the distribution territory and private entities seeking to procure the licensed article pursuant to a contract with a government within the distribution territory, unless the prior written approval of the U.S. Department of State is obtained.”

Sublicensees with Contract Employees

Contract employees to any Party to the Agreement hired through a staffing agency or other contract employee provider shall be treated as employees of the Party, and that Party is legally responsible for the employees’ actions with regard to transfer of ITAR controlled Defense Articles to include Technical Data, and Defense Services. Transfers to the parent company by any contract employees are not authorized. The Party is further responsible for certifying that each employee is individually aware of their responsibility with regard to the proper handling of ITAR controlled Defense Articles, Technical Data, and Defense Services.

Signature of Integrator/Intermediary

Printed Name

Date