

Export Control Plan

DRD: _____

Prepared by:

Name of Contract

Contract Number: _____

Date

Name and address of Company

DISTRIBUTION STATEMENT C: Distribution authorized to U.S. Government agencies and their contractors; other requests for this document shall be referred to **Name of company**

Export Control Plan

For The

Name of Company

Prepared by:

Doc Number:
Revision: Baseline
Date:

Export Control Plan

Date

Peer Reviewed by:

Date

Quality Reviewed by:

Date

Approved by:

Date

Doc Number:
Revision: Baseline
Date:

Export Control Plan

REVISION RECORD

REVISION	DATE	DESCRIPTION
Baseline	04/01/2009	Initial Release

TABLE OF CONTENTS

PARAGRAPH		PAGE
1.0	INTRODUCTION.....	7
2.0	PURPOSE.....	7
3.0	SCOPE.....	7
4.0	RESPONSIBILITIES.....	7
5.0	FLOWDOWN OF EXPORT CONTROL REQUIREMENTS.....	8
6.0	EXPORT	8
6.1	EXAMPLES OF EXPORTS	8
6.2	EXAMPLES OF EXPORT VIOLATIONS	8
6.3	POSSIBLE PENALTIES	9
7.0	GENERAL EXPORT PROCESSES.....	9
7.1	GENERAL QUESTIONS BEFORE EXPORTING	9
7.2	GETTING SUPPORT FROM THE EXPORT REPRESENTATIVE.....	10
7.3	GETTING THE EXPORT COMPLIANCE DOCUMENTATION TOGETHER.....	10
7.4	WHAT TO DO IF A LICENSE IS REQUIRED	10
7.5	OTHER EXPORT ISSUES	10
8.0	DETAILED PROCEDURES.....	10
8.1	DETERMINE THE REQUIREMENT TO EXPORT.....	10
8.2	DETERMINE IF THERE ARE ANY RED FLAGS.....	11
8.3	DETERMINE WHETHER THE EXPORT IS COVERED UNDER AN EXISTING LICENSE	11
8.4	GUIDELINES FOR CLASSIFYING COMMERCIAL OFF-THE-SHELF ITEMS	12
8.5	DETERMINE WHICH AGENCY OF THE FEDERAL GOVERNMENT HAS JURISDICTION.....	12
8.6	DETERMINE THE CLASSIFICATION, FOR EXPORT CONTROL PURPOSES..	12
8.7	DETERMINE THE COUNTRY OF ULTIMATE DESTINATION.....	13
8.8	DETERMINE THE ULTIMATE END USER.....	13
8.9	DETERMINE THE ULTIMATE END USE	13
8.10	USING THE PRE-EXPORT CLEARANCE AND APPROVAL WORKSHEET	13
8.11	DETERMINE THE CLASSIFICATION OF THE EXPORT AND WHETHER A LICENSE IS REQUIRED	14
8.12	DESTINATION CONTROL STATEMENTS	14

8.13	APPLYING FOR AN EXPORT LICENSE.....	14
	8.13.1 Department of State.....	15
	8.13.2 Department of Commerce.....	15
	8.13.3 Technical Assistance Agreements (TAA).....	15
8.14	USING A LICENSE	16
8.15	EXPORTING DATA RECEIVED FROM A FOREIGN SOURCE	17
8.16	VERIFICATION OF END USE AND ADDITIONAL REPORTING	17
8.17	UNSOLICITED REQUEST FOR INFORMATION	17
9.0	FOREIGN NATIONAL ACCESS TO KSC.....	18
9.1	SANITIZATION OF WORK AREA	18
10.0	STEPS TO FOLLOW WHEN EXPORTING	18
10.1	EXPORTS VIA INTERNATIONAL SHIPPING	18
10.2	PUBLIC RELEASE OF SCIENTIFIC AND TECHNICAL INFORMATION.....	18
10.3	ELECTRONIC TRANSFER OF TECHNICAL DATA	19
10.4	EXPORTS VIA HAND CARRY WHILE ON FOREIGN TRAVEL.....	19
	10.4.1 International Travel Request System	20
11.0	COMPLIANCE POLICIES AND PROCEDURES	20
11.1	EXPORT POLICES AND PROCEDURES (AS REQUIRED)	21
12.0	RECORD KEEPING	22
12.1	RESPONSIBILITY	22
12.2	RETENTION PERIOD	22
12.3	PROCEDURES	22
12.4	SPECIAL REPORTING REQUIREMENTS.....	23
13.0	EXPORT TRAINING.....	23
13.1	TRAINING REQUIREMENTS.....	23
14.0	EXPORT/SECURITY POINTS OF CONTACT.....	23
15.0	EXPORT RELATED FORMS.....	24
16.0	WEBSITES AND SELECTED WEB PAGES.....	25
17.0	ACROYNM LIST.....	25
18.0	DEFINITIONS.....	26
19.0	ATTACHMENT A - SUBCONTRACTOR/CONSULTANT EXPORT COMPLIANCE ACKNOWLEDGMENT FORM.....	32

Doc Number:
Revision: Baseline
Date:

Export Control Plan

1.0 INTRODUCTION

In order to accomplish the program objectives of the _____ Contract, _____ may be required to provide program technical data and technical assistance to foreign persons.

It is the policy of _____ to comply with all U.S. Government laws and regulations regarding the export of defense articles, defense services, and technical data. All actions taken must be in accordance with the laws and regulations mentioned within this document, as well as with _____ Corporate Export Policies and Procedures.

2.0 PURPOSE

This _____ Export Control Plan documents how to implement _____ export control policies and procedures. _____ corporate policies provide overarching guidance to ensure exports to foreign parties comply with U.S. export control laws and regulations. This export control plan directs compliance with Department of State (DOS) and Department of Commerce (DOC) and other regulations, and minimizes the risk of suspension of current or future export privileges, which could leave _____ unable to affect exports or transfers required under its contract agreements. This instruction also assists _____ personnel and subcontractor personnel in avoiding schedule delays or cost overruns and/or criminal, civil, or administrative penalty enforcement actions.

3.0 SCOPE

This plan is applicable to all employees assigned to _____. This plan serves as guidance to subcontractor personnel and consultants when exporting on behalf of the _____ contract. Subcontractors and consultants are expected to adopt and enforce concepts in their own compliance programs similar to those embodied in this export control plan in a manner that is fully compliant with all applicable U.S. export laws and regulations.

4.0 RESPONSIBILITIES

Each employee supporting the _____ contract is personally responsible for safeguarding sensitive, proprietary, and export-controlled data and information from disclosure to foreign persons. Employees should familiarize themselves with _____ contract activities that require protection within the scope of the U.S. export laws and regulations

The _____ Local Export Administrator (LXA) is responsible for the overall administration of the export control program for the _____ contract. The LXA will consult with and maintain close coordination with the NASA Export Control POC for all export control issues and procedures as described in this plan.

The Exporter is often the technical point of contact responsible for initiating the export activity, as well as gaining concurrence from the LXA. The Exporter has an intimate knowledge of the export item(s) and should be aware of any unique requirements that must be provided to the Export Control POC using the appropriate export control forms. This information includes technical description of export, destination country, end-use,

end-user, requirement to export, ECCN/USML codes and harmonized codes and other information required to complete these documents.

5.0 FLOWDOWN OF EXPORT CONTROL REQUIREMENTS

_____ will include the provisions of Clause NFS 1852.225-70 Export Licenses in all subcontracts and consultant agreements.

All subcontractors and consultants will be required to complete an Export Compliance Form ([Attachment A](#)) acknowledging that they understand their obligations concerning their compliance with all U.S. export control laws and regulations during the performance of this contract.

6.0 EXPORT

The export of defense articles and technical data on a contract must comply with either the Department of State or the Department of Commerce regulations. Technical information is usually disseminated in written documents (technical reports, memoranda, presentations, etc.) or by magnetic media (e.g., computer tapes or diskettes). Technical data or defense services (such as engineering consulting support) may be conveyed orally by telephone, in writing, or at meetings with the customer.

EXAMPLES OF EXPORTS

1. Sending or taking a defense article out of the U.S. in any manner, except by mere travel outside the U.S. by a person whose personal knowledge includes technical data; or
2. Transferring registration or control to a foreign person of any aircraft, vessel, or satellite covered by the U.S. Munitions List, whether in the U.S. or abroad; or
3. Disclosing (including oral or visual disclosure) or transferring in the U.S. any defense article to an embassy, any agency or subdivision of a foreign government (e.g., diplomatic mission); or
4. Disclosing (including oral or visual disclosure) or transferring technical data to a foreign person, whether in the U.S. or abroad; or
5. Performing a defense service on behalf of, or for the benefit of, a foreign person, whether in the U.S. or abroad.
6. A launch vehicle or payload shall not, by reason of the launching of such vehicle, be considered an export.

EXAMPLES OF EXPORT VIOLATIONS

1. Export or Import without a License.
2. Failing to maintain records and reports.
3. Failure to file a shipper's export declaration.
4. Export to an unauthorized consignee.

5. Hand carrying technical data or hardware overseas without appropriate documentation.

POSSIBLE PENALTIES

1. General violation – a fine of not more than five times the value of the export involved or \$50,000, whichever is greater;
2. Willful violation – a fine of not more than five times the value of the export involved or \$1,000,000, whichever is greater;
3. Individuals may be fined not more than \$500,000 for each violation;
4. Seizure or forfeiture of goods;
5. Imprisonment;
6. Loss of export privileges;
7. Employment termination;
8. Loss of patent rights.

7.0 GENERAL EXPORT PROCESSES

This section describes the general processes required for any export of hardware, software, or technical data by any means. It includes steps the exporter shall perform, as well as some of the basic steps the LXA or Business Unit Export Administrator (BXA) shall perform. The LXA is the person within the _____ organization who is officially designated as the focal point for export-related issues. The BXA will provide direction to the _____ relating to export compliance activities and general oversight over their performance of export compliance duties.

Section 7 describes the specific steps required depending on the particular method of exporting (e.g., shipment, hand carry, electronic, or personal contact).

The following questions must be addressed in order to fully comply with _____ policy and U.S. export regulations.

GENERAL QUESTIONS BEFORE EXPORTING

- Is there a clear and documented requirement for the export, e.g., contract or agreement? (Section 8.1)
- Are there any Red Flags that make this export seem odd? (Section 8.2)
- Is a license already in place that covers this export? (Section 8.3)
- Is the item to be exported available commercially off the shelf? (Section 8.4)

GETTING SUPPORT FROM THE EXPORT REPRESENTATIVE

Once the general questions have been answered by the export requestor, the LXA must be contacted. The LXA will elicit required information, coordinate with the Export Control POC and assist in complying with important aspects of the export.

- What is being exported and which Agency of the Federal Government has jurisdiction? (Section 8.5)
- What is the export classification of the item? (Section 8.6)
- Where is it going, i.e., all countries it will stop in and the country of ultimate destination? (Section 8.7)
- Who will receive it, i.e., the end user (Section 8.8)
- What will they do with it, i.e., the end use? (Section 8.9)

GETTING THE EXPORT COMPLIANCE DOCUMENTATION TOGETHER

- Who do I submit information to in order to get approval for my export? (Section 8.10)
- How do I determine the Classification of Export and whether a License is required? (Section 8.11)
- What is a Destination Control Statement and how is it used? (Section 8.12)

WHAT TO DO IF A LICENSE IS REQUIRED

- How do I apply for a license? (Section 8.13)
- How do I use a license? (Section 8.14)

OTHER EXPORT ISSUES

- If data is given to me by a foreign national, when is it controlled? (Section 8.15)
- When do I need to follow-up with an end user? (Section 8.16)
- How do I handle unsolicited requests for information? (Section 8.17)

8.0 DETAILED PROCEDURES

DETERMINE THE REQUIREMENT TO EXPORT

Before exporting any item, the exporter must first determine the contractual requirement, obligation, and necessity for this export.

Document the requirement on the [Pre-Export Clearance and Approval Worksheet](#) for all exports to determine a requirement for a license, exemption, or exception.

DETERMINE IF THERE ARE ANY RED FLAGS

Consider abnormal circumstances in a transaction that indicate that the export/transfer may be destined for an inappropriate end use, end user, or destination. Example indications of high-risk requests/exports include:

- Stated end-use is incompatible with the foreign consignee's line of business or with the technical capabilities of the foreign consignee or foreign end-user.
- End-use information is incompatible with standard uses or practices.
- Requestor's business background information is scanty or unavailable.
- Requestor appears unfamiliar with the product or its application, performance/design characteristics, support equipment or uses.

Should any employee receive any of the above indications or any other action by the customer that seems unusual, verify the facts and notify LXA.

With the assistance of the LXA, the exporter must ensure the foreign party to whom they are exporting is not found on the following lists (email LXA the name, organization, and address of foreign recipients to check all lists):

- Unverified List (Department of Commerce)
- Entities List (Department of Commerce)
- Denied Persons List (Department of Commerce)
- List of Debarred Parties (Department of State)
- Specially Designated Nationals List (Department of Treasury)
- *Designated Countries (NASA Headquarters)

*Designated Countries list must also be reviewed prior to requesting access for foreign persons to a NASA center; regardless of the requirement to export.

DETERMINE WHETHER THE EXPORT IS COVERED UNDER AN EXISTING LICENSE

Exports of certain hardware, software, or technical data may be covered under an existing _____ license. If you have any reason to believe the item you want to export already has an export license from the Department of Commerce or State, contact your LXA for verification of and approval to use the license. Obtain the license number and enter it in the appropriate locations of the transfer documents, provide a copy to the LXA and BXA, and keep a copy for your records.

NOTE: Approval on the Pre-Export Clearance and Approval Worksheet must be obtained from the BXA prior to using any license, exception, or exemption.

GUIDELINES FOR CLASSIFYING COMMERCIAL OFF-THE-SHELF ITEMS

Is the item to be exported available commercially off the shelf? If the export is commercial off-the-shelf (COTS) hardware or software, you should contact the manufacturer, and attempt to obtain the export classification in writing. Keep a record of the name and telephone number of the person you contacted and record the classification of the item on the _____ Invoice. Obtain concurrence from your LXA and copy the BXA.

NOTE: COTS hardware and software is usually export-controlled and may require a license. See your LXA for assistance in determining classifications.

DETERMINE WHICH AGENCY OF THE FEDERAL GOVERNMENT HAS JURISDICTION

Items that are designated as defense articles and defense services are determined by a Commodities Jurisdiction performed by the Department of State Directorate of Defense Trade Controls with concurrence by the Department of Defense, Department of Commerce and other U.S. Agencies as appropriate (See International Traffic and Arms Regulations (ITAR) 22 CFR Parts 120–130. Items so designated constitute the United States Munitions List, (USML 22 CFR Part 121.) The Department of Commerce regulates the export of items primarily designated as dual-use (can be used for both military and other strategic uses, e.g., nuclear, Department of Energy, and commercial applications) on the Commerce Control List (CCL) under the Export Administration Regulations (EAR) (15 CFR Parts 730-799). The Treasury Department, Office of Foreign Assets Control (OFAC), implements broad export/re-export controls and embargo transactions with certain foreign countries. The U.S Nuclear Regulatory Commission (NRC) controls the export and re-export of commodities related to nuclear reactor vessels. The Department of Energy (DOE) controls the export and re-export of technology related to the production of special nuclear materials. Other agencies of the government also have export controls, but most likely do not apply to performance under the _____ contract.

DETERMINE THE CLASSIFICATION, FOR EXPORT CONTROL PURPOSES

The classification of the item will determine whether a license is required for the export. For the _____ contract, many item(s) that may be exported are classified either under the ITAR USML XV Spacecraft Systems and ITAR USML IV – Launch Vehicles and Rockets.

Since _____ personnel primarily rely on data and documentation to perform daily tasks, it is important to be able to identify export-controlled documentation and data. In all cases, export-controlled documentation is required to be clearly marked. Since _____ support personnel have access to secure databases, the data should be considered as export-controlled unless we are specifically informed that such items are not export-controlled. Just because you believe something may be found in the “public domain” does not mean it is not export-controlled. DDTC does not recognize the World Wide Web as public domain. Even if the data is in the public domain and is not

controlled, associated “services” might be controlled. If you have a question regarding whether or not something is subject to export control please consult with your LXA.

DETERMINE THE COUNTRY OF ULTIMATE DESTINATION

The country of ultimate destination is an important factor for determining license requirements. The Directorate of Defense Trade Controls (DDTC) via the ITAR 22 CFR 126.1 “Prohibited Exports and Sales to Prohibited Countries,” describes Item export policies and licensing requirements toward select countries. The Bureau of Industry and Security (BIS) (Department of Commerce) maintains the Commerce Control List, which includes items (i.e., commodities, software, and technology) subject to the export licensing authority of BIS. The BIS also maintains the Commerce Country Chart, Supplement No. 1 to part 738, which contains licensing requirements based on destination and reason for control. In combination with the CCL, the Commerce Country Chart determines whether a license is required for the items listed on the CCL, Supplement No. 2 to part 774 of the EAR.

DETERMINE THE ULTIMATE END USER

There are certain individuals who may not receive an export or must have a license to receive the export. These individuals are listed by the Department of State, Department of Commerce and Department of Treasury. Before exporting, contact the LXA to make certain that all “lists to check” identified in Section 7.2 have been reviewed.

DETERMINE THE ULTIMATE END USE

There are certain restrictions imposed by DOS via the ITAR 22 CFR 120 – 130 and DOC via the EAR 15 CFR 730 – 744 for the export or re-export of items that will be used for defense or defense services, and items that are deemed dual-use (both military and commercial purposes). Inclusive within these directives are specific limitations on the proliferation of nuclear, chemical and biological weapons, and associated missile systems, microcomputers and nuclear propulsion systems.

USING THE PRE-EXPORT CLEARANCE AND APPROVAL WORKSHEET

The Exporter and LXA will work together to gather information and prepare required documentation.

The [Pre-Export Clearance and Approval Worksheet](#) is used for the following reasons:

- To document an export (record keeping)
- To request and verify classifications
- To obtain an approval for an export using a license and or license exemption or exception.

The exporter must complete and submit the Pre-Export Clearance and Approval Worksheet for all exports. The completed forms must be submitted to your LXA, who will submit the Worksheet to the BXA if necessary.

The LXA will use the information on the Pre-Export Clearance and Approval Worksheet to help classify the export and to determine if a license is necessary for the export. The LXA may contact the exporter if more information is required in order to classify the export.

If the export can proceed without a license, the BXA will sign the Pre-Export Clearance and Approval Worksheet. If a license is required, the exporter will be contacted by the LXA for more information to begin the license application process.

DETERMINE THE CLASSIFICATION OF THE EXPORT AND WHETHER A LICENSE IS REQUIRED

When the LXA receives the completed Pre-Export Clearance and Approval Worksheet, he/she will consult with the BXA to confirm classification. The LXA may contact the exporter for more information as required in order to properly classify the item. The LXA will then determine if a license is required to export the item.

If _____ cannot determine the jurisdiction or classification of an item, the BXA consults with the Corporate Export Administrator (CXA) to determine whether an official Commodity Jurisdiction (CJ) request is appropriate. The CJ request is submitted to the appropriate regulatory agency for review. An export may proceed only after a CJ determination, if necessary. This process may take up to six months.

DESTINATION CONTROL STATEMENTS

A "Destination Control Statement" is a statement made by the exporter or consignor that must be entered on the paperwork accompanying the shipment or release to its end user. There are various Destination Control Statements which notify people that: "the items were exported from the United States in accordance with the applicable export regulations. The diversion, retransfer, disclosure, or use contrary to applications specified in _____ agreement without prior written U.S. authorization is prohibited."

There are several different Destination Control Statements that apply specific wording that should be included for different exported items. Reference _____ Policy _____ Proprietary Information, Technical Data, and Personal Information" for additional guidance.

APPLYING FOR AN EXPORT LICENSE

In accordance with _____ policy, the Corporate Export Administration with assistance from BXAs is solely responsible for all jurisdiction determinations, license applications, agreements applications, and exemption use. The process of applying for a license may take up to 4-12 months; therefore, you must identify exports and begin the steps in this section as early as possible.

It is the responsibility of the Program/Project Manager to identify export compliance milestones as soon as possible to ensure that export compliance matters are considered and resolved in advance of prospective shipping or transfer dates.

8.1.1 Department of State

An export license is required, in most cases, prior to the export of defense articles or technical data that are not part of a Technical Assistance Agreement (TAA). The list below describes the various licenses required for the differing types of exports.

1. **DSP-5** Application or License for the permanent export of unclassified defense articles and related unclassified technical data (may be used for a one-time export, or allow multiple exports during a specified period of time).
2. **DSP-61** Application or License for the temporary import of unclassified defense articles.
3. **DSP-73** Application or License for the temporary export of unclassified defense articles (used mainly to export defense articles for demonstrations -- not a license to transfer technical data).
4. **DSP-83** Non-transfer and Use Certificate to be signed by the end user stating that they will not transfer technical data or defense articles to another user.
5. **DSP-85** Application or License for the permanent or temporary export of classified defense articles or related classified technical data.
6. **DSP-94** Application or License to export defense articles and defense services sold under the Foreign Military Sales Program.

8.1.2 Department of Commerce

The export of commercial commodities or dual-use items (items that have both military and commercial applications) usually falls under the jurisdiction of the Department of Commerce. A General License (GL) is required when these items are exported to a foreign destination or person. No application or licensing document is required for a GL, only an annotation of the license code in Block 21 of the Shipper's Export Declaration. General Licenses are:

- a. **General License-GTDU** General License for the export of commercial commodities and/or technical data (unrestricted).
- b. **General License-GTDR** General License for the export of commercial commodities or technical data that have restrictions.

Countries are categorized by the DOS and the DOC for the level of restrictions of exports. Consult with the LXA for a list of countries with export restrictions.

8.1.3 Technical Assistance Agreements (TAA)

A TAA is required to perform a defense service or export technical data to foreign nationals when the effort is controlled by the ITAR. The TAA request is prepared and submitted by the cognizant Business Unit Export Administrator to the Corporate Export Administrator for signature. The CXA forwards the TAA to the DOS.

The TAA request will be returned by the DOS either: (1) approved, (2) denied, (3) approved with provisos, or (4) return without action due to insufficient information received in order to process. If a TAA request is denied, an appeal can be made to the DOS to reverse its decision.

Once the TAA is approved, a copy of the DOS approval letter is sent to the applicant and any provisos of the approval must be incorporated into the TAA. After the TAA is executed by all parties, the TAA is logged with DOS and export of services and/or technical data can occur.

USING A LICENSE

Once a license has been approved by the Department of Commerce or State, you are responsible for certain reporting and record keeping requirements. You must notify the LXA, in writing, that you intend to use a license fifteen (15) working days in advance of the anticipated export date (always try to allow more time to accommodate unexpected events). The LXA will then verify that items are covered by the license and that quantities or dollar value on license have not been exceeded. The LXA or BXA will also let you know if a separate Pre-Export Clearance and Approval Worksheet are required.

The exporter must verify that the items exported have reached the destination and end-user authorized by the license. Written verification must be retained in your records, with a copy provided to the LXA and BXA. The LXA will provide license specific directions addressing reporting requirements and provisos.

NOTE: Approval of the Pre-Export Clearance and Approval Worksheet must be obtained from the BXA prior to using any license, exception, or exemption.

It is the responsibility of all _____ employees involved in possible export activity to familiarize themselves with the Operation Licenses and Technical Assistance Agreements (TAAs) and Provisos imposed by the Department of State. The Licenses and TAAs establish a baseline for technical data that can and/or cannot be released. The Provisos are restrictions associated with the licenses and TAAs.

Some key considerations for TAA compliance are as follows:

- a. Only work that is within the approved task scope and total price defined in the approved TAA may be performed and disseminated to the recipient (once the TAA has been signed by all parties to the agreement).
- b. Work cannot be performed beyond the expiration date of the TAA.
- c. Any request for an extension of time to a TAA must be submitted at least 60 days prior to its expiration.
- d. A request for an amendment to a TAA must also be submitted and approved by the DOS prior to conducting any work that is beyond the scope or total cost of the existing TAA.

- e. When exporting unclassified defense-related technical data approved under a TAA, the LXA will coordinate the following certification with the BXA and appropriate _____ technician: "*The technical data being exported does not exceed the scope or limitations of TAA [fill in TAA no.]; 22 CFR 125.4(b) (2) Applicable*". This statement and the "Software/Technical Data" Destination Control Statement (below) will be placed on the envelope containing the data, CD case or other container in a visible location. BXA will provide initial export information to CXA and maintain records of subsequent exports.

DCS for ITAR software or technical data exports

"Technical data authorized for export may not be re-exported, transferred or diverted from the country of ultimate end-use or from the authorized foreign end-user or disclosed to a national of another country without the prior written approval of the Directorate of Defense Trade Controls."

EXPORTING DATA RECEIVED FROM A FOREIGN SOURCE

Data received from a foreign source (i.e., a non-U.S. Person) must be controlled for export purposes just as if the data originated in the U.S. Recipients may not export such data to any non-U.S. person without going through the export approval process. The data must be classified and a determination must be made whether a license is required, or an exception or exemption is available, before proceeding with the export.

VERIFICATION OF END USE AND ADDITIONAL REPORTING

There are two situations that require the exporter to verify an export and provide additional reporting:

1. If an item was exported using a license, exporter must complete a Technical Data Record; and
2. If an item on the [Wassenaar list](#) was exported using certain exceptions.

If an item was exported using a license, the exporter must obtain written confirmation that the end user authorized on the license received the item. The exporter must retain this confirmation in their records and provide a copy to the LXA within 2 weeks following shipment.

If an item on the Wassenaar list is exported using an exception, as described in part 743 of the EAR, the exporter must include the "Receipt of Wassenaar Arrangement Commodities" template with the shipment. This template must be signed by the end-user and returned to the exporter within five business days. The exporter must then forward a copy of the signed template to the LXA within five business days, and retain a copy in his records.

UNSOLICITED REQUEST FOR INFORMATION

Report all unsolicited requests for information to the LXA.

9.0 FOREIGN NATIONAL ACCESS TO KSC

Foreign National (FN) as defined in KNPR1600.1 includes any person who is not a citizen of the United States, including a citizen, permanent resident alien or protected individual of the United States, who represents a government, business, organization, or person of a country other than the United States.

Security clearances for foreign national visitors to Kennedy Space Center (KSC) are processed through the NASA KSC Center International Visit Coordinator, with concurrence from the Center Export Administrator (CEA). In addition, if the individual is to be badged for one or more visits totaling more than 30 days in a calendar year, form KSC 7-650 must be submitted.

The requestor is required to provide all necessary information on the individual as outlined in the KSC Security Procedural Requirements, KNPR 1600.1; Chapter 17.

SANITIZATION OF WORK AREA

All _____ personnel are required to sanitize their work area and office area of any information that does not pertain to their respective Program and any information that is not approved for release. If this cannot be accomplished, the material is required to be locked in your desk or locked in file cabinets. If you have material that cannot be locked in either your desk or file cabinets your office door is required to be locked in your absence. Remember that all Private Data and Proprietary data is also required to be locked in either a file cabinet or desk.

10.0 STEPS TO FOLLOW WHEN EXPORTING

EXPORTS VIA INTERNATIONAL SHIPPING

To fully comply with the ITAR and EAR, it is not sufficient merely to obtain the required export approvals. Export licenses, import licenses, agreements and exemptions are not issued "carte blanche." U.S. Government regulations require specific shipping procedures when exporting hardware or technical data under any U.S. Government export authorization or ITAR exemption/ license exception.

Before exporting any technical data, hardware or arranging Customs clearance of any imports, contact your LXA and ensure that you are familiar with the following:

- Shipping Procedures & Recordkeeping Requirements
- Shipper's Letter of Instruction

PUBLIC RELEASE OF SCIENTIFIC AND TECHNICAL INFORMATION

Scientific and Technical Information (STI) consists of the results (facts, analysis, and conclusions) of basic and applied scientific, technical, and related engineering research and development. STI also includes management, industry, and economic information relevant to this research.

Employees must submit a copy of the paper/presentation/document to be released to the LXA. If the request is for updates or changes to a previously released paper, you

must clearly indicate the revisions or change (change bars, underlines, etc.) in your submittal.

ELECTRONIC TRANSFER OF TECHNICAL DATA

Information can be exported in many electronic forms, such as:

- Website
- Email
- Facsimile
- Share folders/servers
- File Transfer Protocol (FTP)
- Flash cards
- Memory sticks
- CD-ROM
- Zip Disk
- Diskettes
- Workstations and Laptops
- Personal Digital Assistants (PDAs)

Regardless of the media, the data must be classified before it can be exported. Complete the Pre-Export Clearance and Approval Worksheet and contact your LXA for assistance.

If the technical data is subject to export control, consult your _____ Security POC to determine the best method to secure the data prior to exporting (i.e., encryption, password protection). Electronic transfers of technical data must be controlled to known, authorized recipients to avoid any unauthorized exports and public release.

EXPORTS VIA HAND CARRY WHILE ON FOREIGN TRAVEL

All employees who travel abroad must review the **ADD FOREIGN TRAVEL BRIEFING LINK HERE**.

Some things to keep in mind when preparing for a trip:

- If you take an item with you out of the country, it is an export, even if you never intend to and never do show it to any foreign person – this includes everything in your briefcase and anything you carry with you in electronic form.
- Do not assume that anything will be secure in your hotel room, safe, or a checked bag. Take additional precautions if you have a controlled export (such as using bonded or U.S. Government-controlled storage facilities).

- Allow adequate lead-time prior to your trip to obtain any necessary authorization to carry controlled items with you and to allow the responsible export officials reasonable time to analyze your request and take any necessary action to secure approval. Export review, classification and sometimes authorization can be completed without having prepared travel orders.
- Use the resources available from the International Corporate Resources site found on _____ at [ADD LINK HERE](#). This resource can provide information on your destination, i.e., entry/exit requirements, medical alerts, risk factors, and special precautions required.

Think about how the items you plan to carry with you might appear to airport security and customs officials – if available, carry appropriate documentation relating to your official travel status and purpose of your travel and items you carry to ensure smooth passage through customs.

10.1.1 International Travel Request System

The _____ International Travel System is an automated workflow system designed to clarify and ease the process for international travelers, proxies, and approvers. The system walks the traveler through a complex process to ensure the correct forms are completed and approved based on answers to questions regarding the travel.

The purpose of the export section is to determine the exact export requirements in relation to the technology (hardware, software, or technical data). Work with your Travel Proxy to ensure sufficient detail is provided to assist with this determination.

Complete details must be provided for all hardware, software, and technical data being hand carried out of the United States. A Pro-Forma Invoice will be generated for laptop/equipment if applicable, whether you have defense technology on your laptop, or you travel using the TMP exception, you will need to work with your Travel Proxy to complete the online pro forma invoice to avoid problems with customs officials here or in another country. While not mandatory under government regulations, if you travel without this documentation, Customs officials may question whether you purchased your laptop overseas and you are trying to avoid paying duties by claiming that you bought it in the U.S. By carrying a pro forma invoice on _____ letterhead, you can avoid this potential hassle and possible seizure.

When traveling to a foreign destination, and transporting an export that requires a license, you must have an export license for that export in your possession.

Go to **COMPANY TRAVEL REQUEST SYSTEM** for more information.

11.0 COMPLIANCE POLICIES AND PROCEDURES

The following are _____ policies for facilitating, authorizing, and controlling the transfer of sensitive and export controlled data to foreign persons. Be certain to verify current version before use.

_____ EXPORT POLICES AND PROCEDURES

_____ is committed to export controls compliance. Relevant Corporate policies that _____ personnel should be familiar with include the following:

1. Information and Data Protection Policy

Sets policies, standards, and guidelines for all aspects of information security in _____ information technology systems including customer or government furnished equipment.

2. Foreign Person Access to Controlled Technology

Establishes the requirements, processes, and responsibilities for the protection of controlled technology to preclude unauthorized access to export-controlled information by foreign person employees, suppliers, visitors, and customers when their assignment requires them to access areas and information systems containing such information or material.

3. Compliance with US Export and Sanctions Regulations

Establishes policies for compliance with U.S. regulations governing the export of munitions, dual-use items and related technical data.

4. Proprietary Information, Technical Data and Personal Information

Establishes policies (i) to help employees determine what information may be disclosed to non-employees, as well as the relative sensitivity of information that should not be disclosed outside of _____ without proper authorization; (ii) for the protection of Proprietary Information developed by and/or in the possession of _____; and (iii) for delivery of Technical Data with restrictive markings under U.S. Government contracts and subcontracts.

5. Risk Management

_____ policy on the marketing, contracting, and conduct of international business activities by _____ and its subsidiaries

6. Corporate Export Administration Manual

Provides procedures for complying with US export regulations, as well as an overview of the framework of U.S. export regulations.

11.1 EXPORT POLICES AND PROCEDURES (AS REQUIRED)

Relevant _____ policies that personnel can reference as needed include the following:

1. Procedural Requirements for Processing Requests for Access to _____ Installations or Facilities by Foreign Nationals or U.S. Citizens Who are Reps of Foreign entities

2. Coordination and Authorization of Access by Foreign Nationals and Foreign Representatives to _____

3. Security Program Procedural Requirements
4. Foreign Access to Technology Transfer Materials
5. Export Control Program / Procedural Requirements
6. Management of Scientific and Technical Information (STI)
7. Requirements for Documentation, Approval, and Dissemination of Scientific and Technical Information (STI)
8. Security Procedural Requirements
9. Procedural Requirements

12.0 RECORD KEEPING

RESPONSIBILITY

For all _____ exports, the BXA is responsible for maintaining records on all exports and export authorizations in accordance with the Export Administration Regulations and the International Traffic in Arms Regulations. Records must be available for inspection by _____ or U.S. Government agencies, as required. Exporter must ensure that LXA and BXA are provided a copy of all export documents in their possession. BXA records are the official records subject to internal and external audit.

RETENTION PERIOD

Export-related records must be maintained for five years after export or five years after the expiration of the export authorization (whichever is longer), and are to be readily available for inspection at any time during those five years. Since DOS licenses are valid for four years, the minimum record maintenance period for exports under such authorizations is nine years.

PROCEDURES

Records and export control documents include, but are not limited to, the following:

- License applications and supporting documents, agreements and other approvals
- Shipper's Letter of Instructions
- Copies of AES filings
- Invoices (commercial and/or pro forma)
- Delivery verifications and foreign import certificates
- Purchase orders
- Air way bills
- Non-transfer and Use Certificates

- Any other documents used in the regulation or control of defense articles, defense services, or technical data for which a license or other approval is required.

SPECIAL REPORTING REQUIREMENTS

- ITAR Exemptions: Most of the 50+ ITAR exemptions require various reporting requirements (see Section 8 of Corporate Export Manual).
- License Provisos/Riders/Conditions: DOS and DOC licenses are often approved with provisos that address a variety of reporting requirements.
- Wassenaar Reporting: The Wassenaar Arrangement was established in order to contribute to regional and international security and stability, by promoting transparency and greater responsibility in transfers of a variety of dual-use goods and technologies. The Bureau of Industry and Security requires an annual report of "Wassenaar exports" shipped by U.S. exporters. Complete information pertaining to Wassenaar, with specific instructions on what exports are to be included in SAIC's annual report to BIS, is available at: **BIS's Wassenaar (www.bis.doc.gov/wassenaar/default.htm)**

13.0 EXPORT TRAINING

TRAINING REQUIREMENTS

All _____ Personnel are required to undergo an annual familiarization training in order to ensure awareness of Export Control requirements.

14.0 EXPORT/SECURITY POINTS OF CONTACT

- a. _____
- b. _____
- c. _____

15.0 EXPORT RELATED FORMS

<u>Form</u>	<u>Title</u>	<u>Usage</u>
	Pre-Export Clearance and Approval Worksheet	This form is used to submit information to one's Local Export Administrator or the Business Unit Administrator for assistance with an export.
	Foreign Travel Briefing	This acknowledgement form contains guidelines for foreign travel with regards to exports. The information includes guidelines for _____ employees for marketing, carrying laptops and other equipment, customer meetings and export licensing requirements.

16.0 WEBSITES AND SELECTED WEB PAGES

Bureau of Industry and Security (BIS)	http://www.bis.doc.gov/
Denied Parties List (DPL)	http://www.bis.doc.gov/DPL/Default.shtm
Designated Countries List	OER - EXPORT CONTROL
Department of Commerce (DOC)	http://www.commerce.gov/
Department of State (DOS)	http://www.state.gov/
Entities List (EL)	http://www.bis.doc.gov/ENTITIES/
Export Administrations Regulations (EAR)	http://www.access.gpo.gov/bis/ear/ear_data.html
Export Administrations Regulations for Recordkeeping	http://www.access.gpo.gov/bis/ear/pdf/762.pdf
International Traffic in Arms Regulations (ITAR)	http://www.pmdotc.state.gov/regulations_laws/itar.html
International Traffic in Arms Regulations for Recordkeeping requirements concerning defense articles and defense services § 122.5	http://ecfr.gpoaccess.gov
International Traffic in Arms Regulations § 123.26 Recordkeeping requirement for exemptions.	http://ecfr.gpoaccess.gov
Directorate of Defense Trade Controls (DDTC)	http://www.pmdotc.state.gov/
United States Munitions List (USML)	http://ecfr.gpoaccess.gov/
_____Corporate Export Administration	
Wassenaar List	http://www.bis.doc.gov/wassenaar/default.htm

17.0 ACROYNM LIST

The following list of acronyms is used throughout this document.

AECA

Arms Export Control Act

BIS	Bureau of Industry and Security
BXA	Business Unit Export Administrator
CLL	Commerce Control List
COTS	Commercial off-the-Shelf
CFR	Code of Federal Regulations
CXA	Corporate Export Administrator
DDTC	Directorate of Defense Trade Controls
DOC	Department of Commerce
DOS	Department of State
EAA	Export Administration Act
DOE	The Department of Energy
EAR	Export Administration Regulations
ECCN	Export Control Classification Number
FACP	Facility Access Control Plan
FSO	Facility Security Officer
GL	General License
ITAR	International Traffic In Arms Regulations
LXA	Local Export Administrator
NRC	Nuclear Regulatory Commission
OFAC	Office of Foreign Assets Control
PRACA	Problem Reporting and Corrective Action Data Base
SED	Shipper's Export Declaration
TAA	Technical Assistance Agreement
TCP	Technology Control Plan
TDR	Technical Data Record
TTCP	Technology Transfer Control Plan
USML	United States Munitions List

18.0 DEFINITIONS

Bureau of Industry and Security (BIS): An Agency within the Department of Commerce responsible for administering and enforcing export controls on dual-use

items. BXA administers the Export Administration Act (EAA) by developing export control policies, issuing export licenses, and prosecuting violators.

Classification (for export): The Category of the CCL or USML assigned to a commodity (item of hardware, software, or technical information). An item may be classified through a rationalized decision by an exporter, ECR, or the EST. However, both the Commerce Department and the State Department may officially assign classification to an item through either the Commerce Department's Commodity Classification process, or through the State Department's interagency Commodity Jurisdiction process. The exporter is responsible for making sure an item is classified properly.

Code of Federal Regulations (CFR): The CFR is the codification of the rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Export Administration Regulations are in 15 CFR [Chapter VII], parts 730-774. The International Traffic in Arms Regulations are in 22 CFR parts 120-130.

Commerce Control List (CCL): The CCL is part of the Export Administration Regulations, which is administered by the U.S. Department of Commerce. The CCL describes dual-use commodities (that is, hardware, software, or technology that can be used for either military or civil purposes) that are subject to EAR export controls, according to the EAR categorizing system of Export Control Classification Numbers (ECCNs).

Commodity Jurisdiction (CJ): A commodity jurisdiction is a request that determines whether an item or service is subject to the export licensing authority of the Department of Commerce (BIS) or the Office of Defense Trade Control (DTC) within the Department of State. BIS is the primary licensing agency for dual-use exports, while the DTC licenses defense articles and services.

Consignee: A Consignee is an intermediate party to an export transaction, who takes at least temporary custody of an item while it is in transit between the exporter and end-user. Examples include freight forwarders (shippers), entities modifying an item in a foreign country prior to its delivery to a third country, and contractors to foreign governments.

Defense Article: Any item listed on the USML, including technical data.

Defense Trade Controls (DTC): The Directorate of Defense Trade Controls, in accordance with sections 38-40 of the Arms Export Control Act (AECA) (22 U.S.C. 2778-80) and the International Traffic in Arms Regulations (22 C.F.R. Parts 120-130), controls the export and temporary import of defense articles and services by taking final action on license applications and other requests for approval for defense trade exports and retransfers, and handling matters related to defense trade compliance, enforcement and reporting.

Denied Persons List: A list, referenced in Supplement No. 2 to part 764 of the EAR, of specific persons who have been denied export privileges, in whole or in part. The full text of each order denying export privileges is published in the Federal Register.

Department of Commerce: The Department of Commerce has jurisdiction over items that are controlled due to national security, foreign policy, missile proliferation concerns, and protecting short supply. In general, these things have a primarily civil purpose but some things can be dual-use (encryption software is a good example) and these are more tightly controlled.

Department of State: The Department of State has jurisdiction over items that are controlled for national security. Some types of GPS, radiation hardened parts and other things with significant military applications.

Destination Control Statements: Statements that show an item is export-controlled and must not be re-transferred or re-exported. This can be required by a license, an exemption or exception, or by policy.

Detailed Design Data: Design Review Data Packages (in total), possible subsets of Data Packages, Build-to-print information, etc. that would enable a party to re-create an item, in whole or in part.

Directorate of Defense Trade Control (ODTC): The office at the Department of State, which administers licenses, defense services, and defense (munitions) articles.

Dual-Use Items: Dual-Use Items may have both non-military and military use.

Encryption: The conversion of plain text into cipher text by the means of a cryptographic system or code. Encryption makes information unintelligible to an unauthorized user.

Entities List: The Bureau of Industry and Security maintains a list of firms and individuals who have been denied export and re-export privileges.

Export Administration Act (EAA): The EAA is the legislative authority that grants the Department of Commerce the authority to issue regulations, and to administer and enforce export controls for national security, foreign policy, and short supply.

Export Administration Regulations (EAR): The EAR is Parts 730 through 774 of the Code of Federal Regulations (15 CFR 730-774) that are administered by the U.S. Department of Commerce. The EAR defines export controls and commodities (hardware, software, and technology) that are subject to the export control authority of the Commerce Department. EAR-controlled items are referred to collectively as the Commerce Control List.

Export Control Classification Number (ECCN): An Export Control Classification Number is used to identify individual items on the Commerce Control List.

Foreign National (FN): as defined in KNPR1600.1 Any person who is not a citizen of the United States, including a citizen, permanent resident alien or protected individual of

the United States, who represents a government, business, organization, or person of a country other than the United States.

Foreign Person: as defined in ITAR 120.16. Any natural person who is not a lawful permanent resident as defined by 8 U.S.C. 1101(a) (20) or who is not a protected individual as defined by 8 U.S.C. 1324b (a) (3). It also means any foreign corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments (e.g., diplomatic missions).

Individual Validated License (IVL): A license specifically obtained for the export of a particular item.

International Traffic in Arms Regulations (ITAR): The ITAR are Parts 120 through 130 of the Code of Federal Regulations (22 CFR 120-130) that are administered by the U.S. State Department. The ITAR defines export controls and military commodities (goods and services) that are subject to the export control authority of the State Department. ITAR-controlled items are referred to collectively as the U.S. Munitions List (USML).

License: A document bearing the word license issued by the Director, Directorate of Defense Trade Controls or his authorized designee permitting the export or temporary import of a specific defense article or defense service controlled by the ITAR or EAR.

License Exception: An authorization contained in Part 740 of the Export Administration Regulations (EAR) that allows the export or re-export, under stated conditions (i.e., quantity, commercial value, country of destination, identity of the exporter, and identity of the end user), of items subject to the EAR that would otherwise require a license.

License Exemptions: An authorization contained in the International Traffic in Arms Regulations (ITAR) that allows the export or re-export, under stated conditions, of items subject to the ITAR that would otherwise require a license.

List of Debarred Parties: List published by ODTTC. The persons on this list have been convicted of violating or conspiracy to violate the Arms Export Control Act (AECA). As a consequence, they are subject to "statutory debarment" pursuant to section 38(g) (4) of the AECA and section 127.7 of the International Traffic in Arms Regulations. Thus, they are prohibited from participating directly or indirectly in the export of defense articles (including technical data) and defense services. The names of these parties and their ineligibility for defense trade have been previously published by the ODTTC in the Federal Register. Statutory debarment remains in effect unless the debarred person's application for reinstatement of export privileges is granted by the ODTTC. Notice of reinstatement will be published in the Federal Register and the person's name will be removed from the list.

Office of Foreign Assets Control (OFAC): The organization that controls access to foreign-controlled assets and maintains the **Specially Designated Nationals List**, which lists individuals and companies owned or controlled by foreign countries.

Public Domain: Information that is published and generally accessible or available to the public.

Shipper's Export Declaration (SED): A shipping document used by the Bureau of Census for compiling official U.S. export trade statistics and by the Bureau of Export Administration (BIS) in administering and enforcing the Export Administration Act and its regulations.

Software: Includes, but not limited to, the system functional design, logic flow, algorithms, application programs, operating systems and support software for design, implementation, test, operation, diagnosis and repair.

Specially Designated Nationals List: As part of its enforcement efforts, OFAC publishes a list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific. Collectively, such individuals and companies are called "Specially Designated Nationals" or "SDNs." Their assets are blocked and U.S. persons are generally prohibited from dealing with them.

Technical Assistance Agreements: An agreement for the performance of a defense service or disclosure of technical data (not to include granting a right to license or manufacture defense articles).

Technical Data: Information, other than software, required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles. This includes information in the form of blueprints, drawings, photographs, models, plans, instructions, and documentation.

U.S. Person: A person (as defined in section 120.14 of this part) who is a lawful permanent resident as defined by 8 U.S.C. 1101(a) (20) or who is a protected individual as defined by 8 U.S.C. 1324b(a) (3). It also means any corporation, business association, partnership, society, trust, or any other entity, organization or group that is incorporated to do business in the United States. It also includes any governmental (federal, state, or local) entity.

United States Munitions List (USML): These are defense related items (hardware, software, information, know-how, and services) that are subject to export controls defined in the ITAR and administered by the U.S. State Department.

Wassenaar Arrangement: The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, is one of four multilateral export control regimes in which the United States participates. The Wassenaar Arrangement establishes lists of items for which member countries are to apply export controls. Member governments implement these controls to ensure that transfers of the

Doc Number:
Revision: Baseline
Date:

Export Control Plan

controlled items do not contribute to the development or enhancement of military capabilities that undermine the goals of the Arrangement, and are not diverted to support such capabilities. In addition, the Wassenaar Arrangement imposes some reporting requirements on its member governments.

Doc Number:
Revision: Baseline
Date:

Export Control Plan

19.0 ATTACHMENT A - SUBCONTRACTOR/CONSULTANT EXPORT COMPLIANCE ACKNOWLEDGMENT FORM

Date _____
Agreement _____
Subcontractor/Consultant: _____

I hereby certify that I have reviewed the work to be performed under the above cited Contract or Subcontract and fully recognize and accept the duty to comply with all U.S. export control laws and regulations. This contract, including any attachments or exhibits hereto, may contain information which is subject to the International Traffic in Arms Regulations (ITAR) or Export Administration Regulations (EAR) which may not be released to foreign concerns or foreign persons either inside or outside the United States without first obtaining the proper export authority.

I also certify that I have read and understand the following export licenses clause that is set forth in the provisions of Clause NFS 1852.225-70 Export Licenses (FEB 2000).

- (a) The Contractor shall comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799, in the performance of this contract. In the absence of available license exemptions/exceptions, the Contractor shall be responsible for obtaining the appropriate licenses or other approvals, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance.
- (b) The Contractor shall be responsible for obtaining export licenses, if required, before utilizing foreign persons in the performance of this contract, including instances where the work is to be performed on-site at [*insert name of NASA installation*], where the foreign person will have access to export-controlled technical data or software.
- (c) The Contractor shall be responsible for all regulatory record keeping requirements associated with the use of licenses and license exemptions/exceptions.
- (d) The Contractor shall be responsible for ensuring that the provisions of this clause apply to its subcontractors.

Signed: _____
Title: _____
Date: _____