

# ECP #2.4 EXPORT LICENSE PROCEDURES FOR TANGIBLE EXPORTS AND COLLABORATING WITH NON-U.S. PERSONS

Released 4-27-2020

## I. Purpose

To ensure that all exports are analyzed for license requirements, and if required, export licenses are obtained from the appropriate government agencies. The purpose of this procedure is to standardize and facilitate the prior review and approval of SI's exports that may be subject to the International Traffic in Arms (ITAR) - or Export Administration Regulations- (EAR) - restricted goods and technology.

If items or data are hand carried or checked onboard an aircraft, please also review Policy and Procedure for Traveling with Equipment and Research-related Materials.

## II. Procedure

1. The **ECO** informs **PIs** and **PMs** about the need to obtain an export license through on-going export compliance review of grants and contracts and advisories sent to advisors semi-annually. (See Attachment 1). The **ECO** works with **PIs** and their **PM** to complete the ITAR/Export Determination Checklist (Attachment 2) with the facts of the transaction or collaboration with a foreign person. (Foreign National Export license form Attachment 3 form ECP 5).
2. Through communication with the **PI** and **PM**, the **ECO** or **ECO-backup** determines the
  - program and purpose of the export
  - items or technical data to be exported
  - parties and countries involved
  - value and origin of the equipment, if applicable
  - length of time the equipment is staying and if it is coming back, if applicable.
  - For deemed exports (providing export controlled data to a non-U.S. person in U.S.) obtain information about the length of time the foreign person will be working on the program. The validity of a license will correspond to the expiration of their visa.
3. The **ECO** works with the **PI/PM** to determine the export classification. The **PI** consults with the sponsor to inquire if the program is ITAR or EAR controlled.
4. For an **equipment** export, the **PI** or requestor provides the details of the transaction on the Export Checklist. Details may be added over time, not all the information is necessarily available at the start of the process. See forms ITAR/Export Determination **ECO-1** and Export Checklist. **ECO-2**.
5. If there is no determination from the sponsor, the **PI** and **ECO** review the Statement of Work, equipment, location, etc. and ITAR US Munitions List and EAR Commerce Control List to determine the type of export and the category and/or Export Control Classification Number. The **ECO** communicates with the **PI** or **PM** to identify if the item to be exported meets the parameters of

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listed items and if a license is required. The **ECO** then reviews any license exceptions or exemptions that might apply. The **ECO** completes the ITAR/EAR license determination. (If the contemplated export is a deemed export, there is an exemption 125.4 b. 11 we can take advantage of if the on U.S. person is a full time employee.)

6. If no exception/exemption applies, the **ECO** completes the appropriate export license application form, (ITAR DSP-5 of Technical Assistance Agreement or EAR BIS form 748P, or OFAC on-line form ), for temporary or permanent export. For this, the **ECO** requires the **PI** to provide the quantity, description, brochure or technical specifications and value of the shipment.
7. The **ECO** determines what supporting documents need to be attached to the license application to comply with the government's review of the transaction, such as
  - end-user statement
  - for foreign national license: visa, passport, resume, cover letter describing job description, technical data to be provided, the output of their work, statement of work. A foreign national license form ECP-5 captures the information – see sample
  - statement of work
  - contract or purchase order
  - sample technical data or drawings.
8. Prior to submission, the draft of the license is sent to the **PI** and **PM** for review, comments and their approval. Once approved, the license forms, pdf versions and unsigned forms are placed in the shared drive V:7 Export Controlled Awards/export licenses/SAO/name of project.
9. If the license is a Technical Assistance Agreement (TAA) with hardware associated with it, the **PI** or **PM** must provide a description and dollar value of the exported technical data and hardware, whether it is permanent or temporary (coming back). The **ECO** provides the prepared license or TAA draft and transmittal letter to all proposed signatories prior to submission to DDTC for their consent or proposed revisions.
10. For ITAR licenses, the **ECO, who is the Empowered Official**, “validates” the license form, and then signs the license digitally before uploading. If it is a major project, the license summary form is completed by the **ECO** to the Senior Empowered Official. For EAR licenses, the **ECO** completed the form, “checks for errors”, prints a copy, sends it to the **PI** for final approval and submits.
11. During the review period the Licensing Officer may have questions or informs the **ECO** that the license has provisos from the Dept. of Defense. The **ECO** reviews the provisos and communicates them to the **PI** and **PM** prior to acceptance and license issuance. If a foreign national license for a

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SI/SAO-affiliated person, the ECO provides the non U.S. person a Non-Disclosure agreement to sign.  
– see Attachment

12. If the technical data is EAR-controlled and qualifies for a license exception or exemption, the foreign person will be asked to sign a letter that they understand the technology is export controlled.
13. The **ECO** ensures that the **PM** and **PI** receive a written copy of provisos and are informed how to show evidence of complying with them.
14. For an **equipment** export, the PI or requestor provides the details of the transaction on the Export Checklist. Details may be added over time, not all the information is necessarily available at the start of the process. See forms ITAR/Export Determination **ECO-1** and Export Checklist. **ECO-2**.
15. The **ECO** ensures that the **PM** and **PI** receive a written copy of provisos and are informed how to show evidence of complying with them.

### III. References

- SD 611 Export Compliance and Trade Sanctions Related to Research, Export and Museum Activities
- Contact: Natascha Finnerty, Export Compliance Officer about questions related to this procedure at [export@si.edu](mailto:export@si.edu) and telephone is (617) 496-7557.
- Definitions

**Applicant** – company or organization that is registered with the Directorate of Defense Trade Controls (DDTC) or Bureau of Industry and Security (BIS) to file license applications through the internet using their secure license portals.

**Bureau of Industry and Security (BIS)** – Agency in the Department of Commerce that processes dual use and commercial license applications for export.

**Category** – the section of the US Munitions List where the item to be exported is classified. Category XV is Space-related items, Category XII is infrared and optics. The Commerce Control List has Categories 0 – 9.

**Commerce Control List (CCL)** – A list of items under the export control jurisdiction of the Bureau of Industry and Security, U.S. Department of Commerce. Note that certain additional items described in part 732 of the EAR are also subject to the EAR. The CCL is found in Supplement No. 1 to part 774 of the EAR. <http://www.bis.doc.gov/policiesandregulations/ear/index.htm>

**DECCS** – portal used by the DDTC to file export license applications.

**End-user information** – both DDTC and BIS require detailed end-user information about where the item or technology will be used and by whom and for what purpose.

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**Export Administration Regulations (EAR)** – regulations set forth in 15 CFR Parts 730 – 774 over the export of commercial, dual-use, strategic and other items subject to foreign policy controls.

**Export Control Classification Number (ECCN)** – 5-digit alphanumeric number assigned to dual-use or commercial items, production and test equipment, materials, software and technology that are controlled for export by an export regime or US government.

**Electronic Export Information** – filing made electronically to the Bureau of Census through their Automated Export System to report exports under an export license or license exception/exemption or valued over \$2500.

**Foreign Consignee** – non U.S. party with whom SAO has direct relationship and/or contractual agreement.

**International Traffic in Arms Regulations (ITAR)** – 22 CFR Parts 120 – 130, regulations issued by the Political and Military Affairs office of the US Department of State governing the registration, authorization of transfer and enforcement of these regulations related to items, services and technical data designated as defense articles.

**Registration Number** – the number assigned to SI in their registration letter from the Directorate of Defense Trade Controls (DDTC), US Department of State. It is a government agency so it starts with a G and needs to be listed on the license.

**Schedule B Number** – US-only number (10 digits XXXX.XX.XXXX format) that identifies the item for the purposes of calculating our balance of trade. Only used for exports.

**Significant Military Equipment (SME)** – certain defense articles preceded by an asterisk in the US Munitions List. Technical data directly related to the manufacture or production of any defense articles enumerated in any category that are designated as SME shall itself be designated SME.

**SNAP-R** – portal used by the BIS to file export license applications.

**Technical Assistance Agreement (TAA)** – export license issued by the US State Department to authorize discussions and technology transfers of item on the US Munitions List that are on-going to approved partners.  
**US Munitions List (US ML)** – Part 121 of the ITAR that consist of items, services and related technical data that are designated defense articles and defense services pursuant to 38 and 47(7) of the Arms Export Control Act (22 U.S.C 2778 and 2794(7)).

SAO's Company ID number with the Dept. of Commerce is S384411.

The registration number with DDTC is G-7000.

NOTE 1: Guidelines for applying for licenses are on DDTC website and are detailed in Part 123 and 124 of the ITAR: <http://www.pmddtc.state.gov/licensing/index.html>. DDTC licenses must be signed by an empowered official with a digital certificate and submitted by an approved submitter on the D-Trade license portal.

[http://www.pmddtc.state.gov/regulations\\_laws/itar\\_official.html](http://www.pmddtc.state.gov/regulations_laws/itar_official.html)

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NOTE 2: EAR license preparation procedures are described in Part 748 of the EAR and the license is submitted through the Bureau of Industry and Security license portal called SNAP-R.

<http://www.bis.doc.gov/snap/index.htm> A user manual for SNAPR is posted on the SNAPR site. Submitters must have an approved SNAPR-R ID but no digital signature is required

- Responsibilities

Export Compliance Officer (ECO) makes a license determination, interviews the PI, applies for the license and manages the release/export of data or items.

Principal Investigators (PI) provide the Statement of Work, assistance the classification of the program, and the details of the data/items that non US persons will receive and what they will be using it for

Program Managers (PM) facilitate the process where necessary

- Records

The following are considered export compliance records to maintain for five years:

Emails or other communications about the proposed export

License applications sent to the appropriate government agencies with supporting documents

Approved licenses with provisos

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### ATTACHMENT 1: LETTER TO ADVISORS

[Date]

#### LETTER TO ADVISORS AND POTENTIAL ADVISORS TO PRE DOCS AND POST DOCS

As a research organization, Smithsonian Astrophysical Observatory (SAO) is required by federal law to safeguard and/or obtain approval for the transfer of hardware, software and technical data to non-US persons for research projects that are outside of the “fundamental research” or “public domain” parameters. I am the Export Compliance Officer, and I am working with a team to identify projects that subject SAO to export controls per the regulations below. Once identified as export controlled, we need to know if the project has foreign-national or export restrictions.

**As you are an advisor of a non-US person who is not a full-time employee**, we need you to ensure that he/she is not working on any program that is export controlled without prior authorization via an export license. Students, fellows and interns who only work with observation data are exempt from export controls as their work is “fundamental research.”

The types of programs that are controlled at SAO are those dealing with **technical data and hardware related to certain space or ground-based instrumentation mounted on or used in spacecraft, satellites, and data or software related to their propulsion and control systems**. Additionally, research related to **focal plane arrays, infrared detectors, deformable mirrors, space-qualified adaptive optics, radiation hardened electronics, digital signal processors, and atomic clocks, etc.** is controlled.

If you believe your student/fellow/intern has access to or will need access to the above instruments or technology in the future, please contact me as soon as possible. Persons from certain countries are not eligible to have access to certain technology, and SAO would be held liable for a violation.

Technology-based export controls start with a determination of whether the item or technology is listed on one of the two export control lists. The two lists are part of the export regulations listed below:

- [International Traffic In Arms Regulations](#) (ITAR) (22 CFR Parts 120 – 130) (link to BITAR) are administered by the US Dept. of State, Directorate of Defense Trade Controls (DDTC). These regulations control items and related data deemed to provide a military advantage. They are enumerated on the **US Munitions List**, which includes *spacecraft and infrared technologies; research satellites, space vehicles, space qualified optics, thruster technology, ground stations, encryption for military use and guidance*

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systems, among other specially designated defense items. We must interface with DDTTC when obtaining approval for technology transfers to non-US persons.

- **Export Administration Regulations** (EAR) (15 CFR Parts 730 – 774) regulate all other commercial items that are exported, including some items that may require a license from the US Department of Commerce, Bureau of Industry and Security (BIS). Items that may need a license are listed on the Commerce Control List (Part 774 of the EAR) and include such items as *lower-level IR cameras, X-ray optics, radiation-hardened electronic components, some cryo-cooled optics and lasers, super computers, coatings, propulsion, encryption and all technology related to these items*. These items are subject to safeguard requirements, such as restricted access to files and information by non-US persons (those who are here on a student or work visa), when they are in our possession, in either hard copy or electronic form, and restrictions from lab areas where research is being performed.

We would like to arrange a meeting to further explain the export regulations process and discuss your project. During the meeting or at a follow-up meeting, we can evaluate your research and lab equipment against the US Munitions List and the Commerce Control List. If your research has any of these technologies, then we will need to inquire about how you safeguard the items, instrumentation, and files and identify the persons working with you. We also need to determine if there are any limitations to the detail of what can be broadly discussed and published.

To prepare for this meeting, we are attaching a compilation of entries on the Commerce Control List and US Munitions List for you to review in advance that may pertain to your research. After the meeting, we may determine other areas of the lists that need to be researched.

If you have any questions, contact our Export Compliance Officer, Natascha Finnerty at [export@cfa.harvard.edu](mailto:export@cfa.harvard.edu) or her phone at 617-496-7557.

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ATTACHMENT 2

## DETERMINATION OF EXPORT CONTROL APPLICABILITY

DATE: \_\_\_\_\_

Completed by: \_\_\_\_\_

NAME OF CONTRACT/PROPOSAL	DESCRIPTION	CONTRACT NUMBER DESIGNATED CODE
PROJECT MANAGER/PRINCIPAL INVESTIGATOR WITH EMAIL AND PHONE	PI	PM
Technical Data (TD) Assessment	RESPOND TO QUESTIONS BELOW	Y OR N
1	Does the contract restrict publication or presentation of results?	
2	Will information disclosure require NDA?	
3	Is there controlled encryption software and hardware bundled with encryption? (over 64 bits not for password protection or authentication)	
4	Are there export license clauses or information security provisions?	
5	Are foreign sponsors/collaborators involved?	
6	Is it for NASA and they have foreign national restrictions?	
7	Does the project include controlled equipment under the ITAR or EAR, like IR cameras, telemetry technology, rad hardened components, IR detectors, rockets, vacuum chambers, optical bench, lasers, solar cells, UAVs or missile technology?	
8	Does research involve foreign travel? (Ensure it is not to an embargoed country? China, Cuba, Iran, North Korea, Sudan, Syria?)	
ECO	If ITAR, and a deemed export, does higher learning exemption apply to the partner with the foreign national?	
ECO	Does multi country ITAR NASA exemption apply?	
Assessment of Fundamental Research Signature	YES, Qualifies as Fundamental Research	NO, It does not qualify – ITAR or EAR (circle)
If controlled, provide the following:		
SAO personnel who will have access to export controlled information		DATE OF TRAINING



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Name	1.	
	2.	
	3.	
	4.	
Other US persons who will have access – name, title, institute		
	1.	
	2.	
	3.	
	4.	
Foreign parties with approved access		SIGNED NDA'S AND TRAINING
Name (in US) or organization (not in US)	1.	
	2.	
	3.	
	4.	
Sub licensees organization (not in US)	1.	
	2.	
	3.	
	4.	
	5.	
SCREENING OF ALL PARTIES AGAINST DPL AND SDN		
DPL report on file?		
HARDWARE EXPORTS AND DESCRIPTION (Temporary or permanent, controlled under ITAR or EAR.) If yes, complete hardware questionnaire Proposed date		
TECHNOLOGY AND HW RELEASE ROAD MAP		
MARKING OF DOCUMENTS AND RECORDS OF MEETINGS AND TELECONS		
IT security plan		
Marking convention		
Responsible for records of meetings and telecons (participants)		
Sign off: ECO		

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## SMITHSONIAN ASTROPHYSICAL OBSERVATORY

### EXPORT OF HARDWARE CHECKLIST

DATE: \_\_\_\_\_

COMPLETED BY: \_\_\_\_\_

HARDWARE EXPORTS AND DESCRIPTION	RESPONSE	COMMENTS
1. Name of Program		
2. PI/PM PI/PM email and phone		
3. Date of Planned Export		
4. Date it needs to be there		
5. Type of equipment		
6. Location of equipment now		
7. Permanent or Temporary export		
8. If temporary, when is it coming back?		
9. Has property transfer form been completed?		
10. Controlled under ITAR or EAR?		
11. What is ECCN/ITAR Category?		
12. Does it need a license? (ECO)		
13. If yes, has license been obtained? (ECO)		
14. Check Denied Persons List and country (ECO)		
15. Hazardous Material/FCC concerns?  Is there an MSDS for the equipment? Is anything hazardous – corrosive, radioactive, etc. If yes, try not to ship; procure it locally at your destination. See DOT list for hazardous items.  *1 MSDS – Material Safety Data Sheet *2 DOT – Dept. of Transportation list of Hazardous Materials and Transportation Guide		

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SAO Form ECO-1

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ATTACHMENT 3

**SAO FOREIGN NATIONAL INFORMATION FORM FOR EXPORT LICENSE**

If your research is export controlled and you wish to work with a non-U.S. Person who is not a full time employee, then this is a “deemed export.” If your program is export-controlled or if your equipment that they will be using is export controlled, then we will need to obtain an export license. Please assist by providing the information below.

SUBMITTED BY:

PROGRAM:

CONTRACT NO/DESIGNATED CODE

SPONSOR AND PRIME:

TECHNICAL CONTACT NAME:

CONTACT INFO:

Information needed for license	
Name	Gonzalo xxx
Address in US	14 Main Street, Somerville, MA 02143
Address in home country	Calle Quixote 4-24 46014 Madrid Spain
Nationality	Spaniard
Passport – Date Checked that it is valid	9-11-2020
VISA – Date Checked that it is valid	10-31-2014
Resume –	Attached
Cover Letter	PI name  Explain your program, what the person will be working on, what technology they need to have access to in order to perform their job, in

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	what form the technology will be – attach
Sample Data Input	Scientific paper about a different satellite Ozone monitoring instrument
Sample Data Output	
Job Description	To be provided by PI
Org Chart where FN is located in Unit	Optical and Infrared Astronomy (OIR)
Technology Control Plan	ECO
Completed, reviewed DSP5 or form BIS 748P	ECO
Proper Statement in item 20 – of DSP-5 “For Employment in the United States of a foreign national who will ...”	ECO
Information about ties to US – relatives, any real estate owned	No family in US

ECP-5

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## ATTACHMENT 4 DSP-73- SAMPLE STATE DEPT LICENSE FOR HARDWARE

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<p>SEAL _____</p> <p style="text-align: center;">Signature _____</p> <p><small>License is hereby granted to the applicant for the described commodity to depart from the United States for temporary export and return to the United States. This license may be revoked, suspended or amended by the Secretary of State without prior notice whenever the Secretary deems such action advisable.</small></p>	<p style="text-align: center;">DATE ISSUED _____</p> <p>LICENSE NO. _____ LICENSE VALID FOR _____ MONTHS FROM ABOVE DATE</p>
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### UNITED STATES OF AMERICA DEPARTMENT OF STATE APPLICATION/LICENSE FOR TEMPORARY EXPORT OF UNCLASSIFIED DEFENSE ARTICLES

*1. Date Prepared 06/14/2013	*2. DDTC Registration Code G-7000	*3. Select One: <input type="checkbox"/> Single departure and return <input checked="" type="checkbox"/> Series of departures and returns	*4. Specific countries of sojourn Chile
---------------------------------	--------------------------------------	---	--

<p>5. Applicant</p> <p>*Applicant is: <input checked="" type="checkbox"/> Government <input type="checkbox"/> Manufacturer <input type="checkbox"/> Exporter</p> <p><input type="checkbox"/> Subsidiary</p> <p>*Name: Smithsonian Institution</p> <p>*Attention: Hatascha Finnerty</p> <p>*Address: 60 Garden Street MS 23</p> <p>*City: Cambridge</p> <p>*State: MA *ZIP Code: 02138</p> <p>*Telephone #: 617-496-7557 Ext _____</p>	<p>*6. Probable Port of Exit from U.S.: LAX if shipped Dallas or Miami if hand carried</p> <p>*7. Probable Port of Entry into U.S.: LAX if shipped Dallas or Miami if hand carried</p> <p>*8. Probable Date of First Exit from U.S.: 08/01/2013 mm/dd/yyyy</p> <p>*9. Probable Date of Final Entry into U.S.: 08/01/2017 mm/dd/yyyy</p> <p>10a. Applicant Contact for Additional Information</p> <p>*Name: Timothy Norton (technical questions)</p> <p>*Telephone #: 617-495-7188 Ext _____</p> <p>View <input checked="" type="checkbox"/></p> <p>10b. U.S. Government Personnel (not PM/DDTC) Familiar with Commodity</p> <p>Name _____</p> <p>Telephone # _____ Ext _____</p> <p>Agency _____</p> <p>Add <input type="checkbox"/></p>
---	--

\*11. Description of Transaction

A. This application represents  ONLY a completely new shipment  ONLY renewal of previously issued license no. Edit License # \_\_\_\_\_

B. This application has related license #

\*C. This application is related to a disclosure filed with Defense Trade Controls  No  Yes

Enter Compliance Disclosure Number: \_\_\_\_\_

Item	*12. Quantity	*13. Commodity	*14. USML Category
1	1 Unit Type Units	MMT and Magellan InfraRed Spectrograph (MMIRS) - an astronomical instrument built by Smithsonian to provide near-IR wide spectroscopy and imaging on two large Magellan telescopes in Chile. Previously exported on 7300022176, and eventually to be returned and will be used on MMT Observatory in Arizona.	XII    c    Commodity Code
		*15. \$ Value	
		Unit Price	Line Item Total
		3,452,000	3,452,000
View <input checked="" type="checkbox"/>		*16. Total Value \$ 3,851,800	

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<p><b>17. Manufacturer of Commodity</b></p> <p><input type="checkbox"/> Same as Block 5    <input type="checkbox"/> Unknown</p> <p>*Name: <input type="text" value="Teledyne Scientific and Imaging"/></p> <p>*Address: <input type="text" value="1049 Camino Dos Rios"/></p> <p>*City: <input type="text" value="Thousand Oaks"/></p> <p>*State: <input type="text" value="CA"/>      *ZIP Code: <input type="text" value="91360"/></p> <p>*Country: <input type="text" value="US"/></p> <p><input type="button" value="View"/> <input checked="" type="checkbox"/></p>	<p><b>18. Foreign Intermediate Consignee</b></p> <p><input type="checkbox"/> None</p> <p>*Name: <input type="text" value="Cerro-Tololo Interamerican Observatory/Association of Universities for Research in Astronomy (CTIO/AURA)"/></p> <p>*Address: <input type="text" value="Avenida de President Riesco 5335 Oficina 507 Las Condes"/></p> <p>*City: <input type="text" value="Santiago"/></p> <p>*Country: <input type="text" value="CI"/></p> <p>*Role: <input type="text" value="Facilitate movement of the instrument through Customs, arrange truck transport to the Las Campanas Observatory."/></p> <p><input type="button" value="View"/> <input checked="" type="checkbox"/></p>
<p><b>19. Source of Commodity</b></p> <p><input checked="" type="checkbox"/> Same as Block 5    <input checked="" type="checkbox"/> Same as Block 17</p> <p>*Name: <input type="text"/></p> <p>*Address: <input type="text"/></p> <p>*City: <input type="text"/></p> <p>State: <input type="text"/>      ZIP Code: <input type="text"/></p> <p>*Country: <input type="text"/></p> <p><input type="button" value="Add"/> <input type="checkbox"/></p>	<p><b>20. Temporary Foreign Consignee</b></p> <p><input checked="" type="checkbox"/> None</p> <p>*Name: <input type="text" value="Observatories of the Carnegie Institution of Washington"/></p> <p>*Address: <input type="text" value="Las Campanas Observatory Colina El Pino Cassilla 601"/></p> <p>*City: <input type="text" value="La Serena"/></p> <p>*Country: <input type="text" value="CI"/></p> <p><input type="button" value="View"/> <input checked="" type="checkbox"/></p>
<p><b>21. U.S. Consignor/Freight Forwarder</b></p> <p><input type="checkbox"/> Same as Block 5</p> <p>*Name: <input type="text" value="Dachser Transport of America"/></p> <p>*Address: <input type="text" value="580 Chelsea Street"/></p> <p>*City: <input type="text" value="East Boston"/></p> <p>*State: <input type="text" value="MA"/>      *ZIP Code: <input type="text" value="02128"/></p> <p><input type="button" value="View"/> <input checked="" type="checkbox"/></p>	<p><b>22. Temporary Foreign End-User</b></p> <p><input checked="" type="checkbox"/> Same as Block 20</p> <p>*Name: <input type="text"/></p> <p>*Address: <input type="text"/></p> <p>*City: <input type="text"/></p> <p>*Country: <input type="text"/></p> <p><input type="button" value="View"/> <input checked="" type="checkbox"/></p>
<p><b>*23. Specific Purpose</b></p> <p><input checked="" type="checkbox"/> Request for Prior Approval (22 CFR § 126.8)</p> <div style="border: 1px solid black; padding: 5px; min-height: 100px;"> <p>The entire instrument was exported and expected to come back each year. The detector failed and so only the failed detector will be returned at this time. A new detector has been purchased and will need to be shipped over. Entire instrument will be returned within license validity period. Will send detector to Carnegie Institution of Washington for export out of Los Angeles or will be hand carried by Smithsonian astronomers and engineers.</p> </div>	<p><b>*24. Is the Article an Aircraft or Vessel?</b></p> <p><input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p><i>Note: Blocks 25 - 29 are on another page and are only displayed if there is a "Yes" response to Block 24.</i></p> <div style="background-color: #cccccc; height: 80px; width: 100%;"></div>

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## \* 30. Applicant's statement

I, Natascha R Finnerty,

an empowered official (22 CFR 120.25) or an official of a foreign government entity in the U.S., hereby apply for a license to complete the transaction described above; warrant the truth of all statements made herein; and acknowledge, understand and will comply with the provisions of 22 CFR 120-130, and any conditions and limitations imposed.

I am authorized by the applicant to certify the following in compliance with 22 CFR 126.13:

- (1) Neither the applicant, its chief executive officer, president, vice presidents, other senior officers or officials (e.g., comptroller, treasurer, general counsel) nor any member of its board of directors is:
  - (a) the subject of an indictment for or has been convicted of violating any of the U.S. criminal statutes enumerated in 22 CFR 120.27 since the effective date of the Arms Export Control Act, Public Law 94-329, 90 Stat. 729 (June 30, 1976); or
  - (b) ineligible to contract with, or to receive a license or other approval to import defense articles or defense services from, or to receive an export license or other approval from any agency of the U.S. Government;
- (2) To the best of the applicant's knowledge, no party to the export as defined in 22 CFR 126.7 (e) has been convicted of violating any of the U.S. criminal statutes enumerated in 22 CFR 120.27 since the effective date of the Arms Export Control Act, Public Law 94-329, 90 Stat. 729 (June 30, 1976); or is ineligible to contract with, or to receive a license or other approval to import defense articles or defense services from, or to receive an export license or other approval from any agency of the U.S. Government; and

## \*22 CFR 126.13 Certification

- a. I am authorized by the applicant to certify that the applicant and all the parties to the transaction can meet in full the conditions of 22 CFR 126.13 as listed above.
- b. I am authorized by the applicant to certify to 22 CFR 126.13. The applicant or one of the parties of the transaction cannot meet one or more of the conditions of 22 CFR 126.13 as listed above. A request for an exception to policy, as described in 22 CFR 127.11 of the ITAR, is attached.
- c. I am authorized by the applicant to certify to 22 CFR 126.13. The applicant or one of the parties of the transaction cannot meet one or more of the conditions of 22 CFR 126.13 as listed above. However that party has met the conditions imposed by the Directorate of Defense Trade Controls in order to resume standard submission of applications, not requiring an exception to policy as described in 22 CFR 127.11 of the ITAR.
- d. I am not authorized by the applicant to certify the conditions of 22 CFR 126.13. The applicant and all of the parties to the transaction can meet in full the conditions of 22 CFR 126.13 as listed above. Please see the attached letter from an official that is authorized by the applicant to certify to the conditions of 22 CFR 126.13.
- e. I am not authorized by the applicant to certify the conditions of 22 CFR 126.13. The applicant or one of the parties of the transaction cannot meet one or more of the conditions of 22 CFR 126.13 as listed above. A request for an exception to policy, as described in 22 CFR 127.11 of the ITAR, and a letter from an official that is authorized by the applicant to certify to the conditions of 22 CFR 126.13 are attached.
- f. I am not authorized by the applicant to certify to 22 CFR 126.13. The applicant or one of the parties of the transaction cannot meet one or more of the conditions of 22 CFR 126.13 as listed above. However that party has met the conditions imposed by the Directorate of Defense Trade Controls in order to resume standard submission of applications, not requiring an exception to policy as described in 22 CFR 127.11 of the ITAR. Please see the attached letter from an official that is authorized by the applicant to certify to the conditions of 22 CFR 126.13.

Signature

Natascha R Finnerty

## 31. License to be sent to:

*[Block is inactive on electronic form.]*

Name			
Address			
City			
State		ZIP Code	
Telephone #		Ext	



# ECP #2.4 EXPORT LICENSE PROCEDURES FOR TANGIBLE EXPORTS AND COLLABORATING WITH NON-U.S. PERSONS

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### CONDITIONS OF ISSUANCE AND TEMPORARY EXPORT PROCEDURES

1. This license is issued under the conditions cited in 22 CFR 120-130, including conditions and limitations as applicable to the specific license authorization.
2. Approval of this license shall not be construed as implying U.S. Government approval or commitment to authorize future exports of any defense article on the U.S. Munitions List (USML) or any U.S. Government commitment with regard to any proposed manufacturing license, technical assistance or distribution agreement that may result from a license authorization.
3. The issuance of a license for the temporary export of hardware does not authorize the export of any technical data, unless authorized by an exemption.
4. The issuance of this license does not release the applicant, or anyone acting on its behalf, from complying with other requirements of U.S. law and regulations.
5. This transaction may be subject to end-use monitoring by the United States Government.
6. No transfer of title is authorized to occur during the period of temporary export from the United States and access to the defense article by foreign persons shall only be in accordance with and for the purpose identified on the license.
7. Licenses for the temporary export of an aircraft or vessel: The applicant when using this license agrees that during its sojourn abroad (1) the aircraft/vessel will remain demilitarized or has only those capabilities that are subject of this license, (2) the applicant will maintain a valid U.S. certification or registry, (3) the aircraft/vessel will not be used in military activities, and (4) it will be operated only by a United States licensed operator (except during U.S. Government approved demonstrations). Also, during its sojourn abroad, the commander will not transport in the aircraft/vessel any defense articles (e.g., arms, ammunitions or implements of war) as described in the U.S. Munitions List unless authorized in this license or by a separate license or exemption under appropriate U.S. Government regulations.
8. The prior written approval of the Department of State, Directorate of Defense Trade Controls, must be obtained before USML articles exported from the United States using a license or other approval, to include an ITAR exemption, may be resold, transferred, diverted, transhipped, reshipped, re-exported to, or used in any country, or by any end user or for any end use, other than that described on the license or other approval.
9. The defense articles authorized for temporary export may be shipped only from a U.S. Port where a U.S. Customs and Border Protection officer is available. It may not be shipped on any vessel, aircraft or other means of conveyance that is owned or operated by, or leased to or from, any of the proscribed countries or areas. The applicant retains the original license. Prior to each export or entry the applicant presents the original license to a U.S. Customs and Border Protection officer for verification and endorsement, having declared the export or entry in accordance with the ITAR and U.S. Customs and Border Protection procedures using the Automated Export System (AES). When a license is authorized for the temporary export of an aircraft and vessel, in addition to presenting the license for verification and endorsement, the exporter must carry the U.S. Customs and Border Protection endorsed license on board as evidence of proper export authorization. Any article temporarily exported must be returned to the U.S. prior to expiration of the license. Otherwise the applicant must request a renewal license at least 60 days prior to the expiration date to renew the authorization. In any instance when a request for renewal is not granted the exporter must immediately return the articles to the U.S.

### DISPOSITION OF LICENSE

The final disposition of this license shall be in accordance with 22 CFR 123.22(c).

### ENDORSEMENT

Indicate below which COMMODITY is BEING EXPORTED and maintain a CONTINUING BALANCE of the remaining value:

SHIPMENT DATE	QUANTITY	COMMODITY	SHIPMENT VALUE	XTN/ITN	INITIALS	PORT OF EXIT/ENTRY
TOTAL AUTHORIZED VALUE:						
REMAINING BALANCE:						

**NOTE** Continuation of additional shipments must be authenticated by use of continuation sheets in the U.S. Customs handbook.

ECP #2.4 EXPORT LICENSE PROCEDURES FOR TANGIBLE EXPORTS AND COLLABORATING WITH NON-U.S. PERSONS

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Description of Transaction

Continuation to Block 11

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A. This application represents only renewal of previously issued license no.

730022176

B. This Application has related license no(s)

NOTE: You must first select the appropriate check boxes under this section to add license no(s)

was licensed to the country in Block 4 of the first page under license no(s)


was licensed to other countries under license no(s)


was returned without action under voided license no(s)


was denied to the country in Block 4 of the first page under voided license(s)


# ECP #2.4 EXPORT LICENSE PROCEDURES FOR TANGIBLE EXPORTS AND COLLABORATING WITH NON-U.S. PERSONS

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Additional Commodities Page # 1 of 1

## Additional Commodities

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<b>Item</b>  2	<b>*12. Quantity</b>  1	<b>*13. Commodity</b>  Teledyne imaging sensor SIDECAR ASIC Cryogenic Kit procured under SAO PO#13-PO-400-0000277714 (to support new unit described below.) See PO.	<b>*14. USML Cat. Number</b>  XII      e      Commodity Code	
	Unit Type Units		<b>*15. \$ Value</b> Unit Price      Line Item Total 49,800      49,800	
<b>Item</b>  3	<b>*12. Quantity</b>  1	<b>*13. Commodity</b>  Teledyne Hawaii 2RG infrared detector procured under SAO contract #SK3-13001 to replace the failed unit. See POs for new unit and previous unit.	<b>*14. USML Cat. Number</b>  XII      c      Commodity Code	
	Unit Type Units		<b>*15. \$ Value</b> Unit Price      Line Item Total 350,000      350,000	
<b>Item</b>  4	<b>12. Quantity</b>  	<b>13. Commodity</b>  	<b>14. USML Category</b>  Category      Sub      Commodity Code	
	Unit Type 		<b>15. \$ Value</b> Unit Price      Line Item Total 	
			<b>TOTAL VALUE</b>	\$ 399,800

ECP #2.4 EXPORT LICENSE PROCEDURES FOR TANGIBLE EXPORTS AND COLLABORATING WITH NON-U.S. PERSONS

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Additional Contacts Information 1 of 1

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Additional Applicant Contact Information

*Name <input type="text" value="Dr. Brian McLeod (technical questions)"/>	Name <input type="text"/>
*Telephone # <input type="text" value="617-495-7023"/> Ext <input type="text"/>	Telephone # <input type="text"/> Ext <input type="text"/>
*Name <input type="text" value="Natascha Finnerty - export license questions"/>	Name <input type="text"/>
*Telephone # <input type="text" value="617-496-7557"/> Ext <input type="text"/>	Telephone # <input type="text"/> Ext <input type="text"/>
Name <input type="text"/>	Name <input type="text"/>
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# ECP #2.4 EXPORT LICENSE PROCEDURES FOR TANGIBLE EXPORTS AND COLLABORATING WITH NON-U.S. PERSONS

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Additional Manufacturers Page # 1 of 1

## Additional Manufacturers of Commodities

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<p><b>*Name</b> <input type="text" value="Smithsonian Astrophysical Observatory"/></p> <p><b>*Address</b> <input type="text" value="60 Garden Street"/></p> <p><b>*City</b> <input type="text" value="Cambridge"/></p> <p><b>*State</b> <input type="text" value="MA"/> <b>*ZIP Code</b> <input type="text" value="02138"/></p> <p><b>*Country</b> <input type="text" value="US"/></p>	<p><b>Name</b> <input type="text"/></p> <p><b>Address</b> <input type="text"/></p> <p><b>City</b> <input type="text"/></p> <p><b>State</b> <input type="text"/> <b>ZIP Code</b> <input type="text"/></p> <p><b>Country</b> <input type="text"/></p>
<p><b>Name</b> <input type="text"/></p> <p><b>Address</b> <input type="text"/></p> <p><b>City</b> <input type="text"/></p> <p><b>State</b> <input type="text"/> <b>ZIP Code</b> <input type="text"/></p> <p><b>Country</b> <input type="text"/></p>	<p><b>Name</b> <input type="text"/></p> <p><b>Address</b> <input type="text"/></p> <p><b>City</b> <input type="text"/></p> <p><b>State</b> <input type="text"/> <b>ZIP Code</b> <input type="text"/></p> <p><b>Country</b> <input type="text"/></p>
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# ECP #2.4 EXPORT LICENSE PROCEDURES FOR TANGIBLE EXPORTS AND COLLABORATING WITH NON-U.S. PERSONS

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Additional Foreign Intermediate  
Consignee Page # 1 of 1

## Additional Foreign Intermediate Consignees

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<p>*Name: DHL HQ Chile</p> <p>*Address: Rio Itata 9651 Parque Industrial Enea</p> <p>*City: Santiago</p> <p>*Country: CI</p> <p>*Role: Receive freight in Chile, clear through customs and deliver to Observatory</p>	<p>Name:</p> <p>Address:</p> <p>City:</p> <p>Country:</p> <p>Role:</p>
<p>*Name: Dachser Chile SA</p> <p>*Address: Av. Vitacura 4380 of 84</p> <p>*City: CP7630327 Vitacura</p> <p>*Country: CI</p> <p>*Role: Receive freight in Chile, clear through customs and deliver to Observatory</p>	<p>Name:</p> <p>Address:</p> <p>City:</p> <p>Country:</p> <p>Role:</p>
<p>Name:</p> <p>Address:</p> <p>City:</p> <p>Country:</p> <p>Role:</p>	<p>Name:</p> <p>Address:</p> <p>City:</p> <p>Country:</p> <p>Role:</p>
<p>Name:</p> <p>Address:</p> <p>City:</p> <p>Country:</p> <p>Role:</p>	<p>Name:</p> <p>Address:</p> <p>City:</p> <p>Country:</p> <p>Role:</p>

# ECP #2.4 EXPORT LICENSE PROCEDURES FOR TANGIBLE EXPORTS AND COLLABORATING WITH NON-U.S. PERSONS

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Additional Consigners Page # 1 of 1

## Additional Consignors in United States

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<p>*Name DB Schenker, Inc. and all US offices</p> <p>*Address 150 Albany Avenue</p> <p>*City Freeport</p> <p>*State NY *ZIP Code 11520</p>	<p>Name</p> <p>Address</p> <p>City</p> <p>State ZIP Code</p>
<p>*Name Federal Express Trade Networks, all US locations</p> <p>*Address 6075 Poplar Avenue Ste 300</p> <p>*City Memphis</p> <p>*State TN *ZIP Code 38119</p>	<p>Name</p> <p>Address</p> <p>City</p> <p>State ZIP Code</p>
<p>*Name DHL HQ and all US locations</p> <p>*Address 1200 South Pine Island Road Suite 600</p> <p>*City Plantation</p> <p>*State FL *ZIP Code 33324</p>	<p>Name</p> <p>Address</p> <p>City</p> <p>State ZIP Code</p>
<p>Name</p> <p>Address</p> <p>City</p> <p>State ZIP Code</p>	<p>Name</p> <p>Address</p> <p>City</p> <p>State ZIP Code</p>
<p>Name</p> <p>Address</p> <p>City</p> <p>State ZIP Code</p>	<p>Name</p> <p>Address</p> <p>City</p> <p>State ZIP Code</p>
<p>Name</p> <p>Address</p> <p>City</p> <p>State ZIP Code</p>	<p>Name</p> <p>Address</p> <p>City</p> <p>State ZIP Code</p>

ECP #2.4 EXPORT LICENSE PROCEDURES FOR TANGIBLE EXPORTS AND COLLABORATING WITH NON-U.S. PERSONS

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ATTACHMENT 5

**Non-Disclosure Agreement – Access to ITAR-Controlled Defense Articles by Foreign National Employees in the United States**

I, [name of foreign person], acknowledge and understand that any technical data related to a defense article covered by the U.S. Munitions List to which I have access per authorization by the U.S. Department, Directorate of Defense Trade Controls [state relevant export license/authorization number] and disclosed to me in my employment by [name of U.S. company] is subject to the export controls of the International Traffic in Arms Regulations (ITAR) (Title 22, Code of Federal Regulations, Parts 120-130). I also acknowledge and understand that should I inadvertently receive defense articles for which I have not been granted access authorization by the U.S. Department of State, Directorate of Defense Trade Controls, I will report such unauthorized receipt and acknowledge the transfer to be a violation of U.S. Government regulations.

In furtherance of the above, I hereby certify that all defense articles, including related technical data, to which I have access will not be used for any purpose other than that authorized by the U.S. Department of State, Directorate of Defense Trade Controls and will not be further exported, transferred, disclosed via any means (e.g., oral disclosure, visual access, facsimile message, telephone) whether in its original form, modified, or incorporated in any other form, to any other foreign person or any foreign country without the prior written approval of the U.S. Department of State, Directorate of Defense Trade Controls.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



ECP #2.4 EXPORT LICENSE PROCEDURES FOR TANGIBLE EXPORTS AND COLLABORATING WITH NON-U.S. PERSONS

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ATTACHMENT 6

**Non-Disclosure Agreement – Letter of Assurance  
for  
Non-US “SAO-Affiliated Person”  
To Permit Access to EAR-Controlled  
“Technology and Software Under Restriction” (TSR)  
or for  
Specific International Traffic in Arms Regulations Export License**

I, [name of non-US person], acknowledge and understand that certain research or technical data related to a controlled technology or software per the Commerce Control List of the Export Administration Regulations (15 CFR Parts 730 – 774) to which I may have access and or is disclosed to me in my affiliation with Smithsonian Astrophysical Observatory is subject to export controls and is permitted by **license exception TSR “Technology and Software Under Restriction.”**

The controlled research technology, data or software may not be disclosed to others without permission by my advisor/supervisor. Such data or software will be marked **“export controlled – TSR.”** These controls are related primarily to **CCDs, adaptive optics, deformable mirrors, high speed processors, rad hardened electronics, infrared technology, instrumentation or encryption** controlled by the U.S. Department Commerce, Bureau of Industry and Security.

I also acknowledge and understand that should I inadvertently receive controlled data or software for which I have not been granted access authorization by the U.S. Department Commerce, Bureau of Industry and Security, I will report such unauthorized receipt and acknowledge the transfer to be a violation of U.S. Government regulations. (Similar items and technology as above that are “space qualified” may controlled as a ‘defense article’ by the U.S. Department of State, Directorate of Defense Trade Controls requires a specific export license and to obtain such a license, I will be requested to provide information, such as a passport and CV prior to any data release).

In furtherance of the above, I hereby certify that all controlled articles, including related technical data, to which I have access will not be used for any purpose other than that authorized by the provisions of the export license exception TSR (part 740.6 of the EAR) and will not be further exported, transferred, disclosed via any means (e.g., oral disclosure, visual access, facsimile message, telephone) whether in its original form, modified, or incorporated in any other form, to any other non-U.S. person or any foreign country without the prior written approval of the appropriate export license agency as indicated above.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

ECP #2.4 EXPORT LICENSE PROCEDURES FOR TANGIBLE EXPORTS AND COLLABORATING WITH NON-U.S. PERSONS

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\* SAO-Affiliated Persons are any of the following:  
Contractors who perform work similar to Smithsonian employees, such as temporary help firms' employees, volunteers, interns and fellows, visiting researchers, including scientists, scholars, students, and research associates.

# ECP #2.4 EXPORT LICENSE PROCEDURES FOR TANGIBLE EXPORTS AND COLLABORATING WITH NON-U.S. PERSONS

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SAMPLE ITAR LICENSE FOR NON-U.S. PERSON

SAMPLE ITAR FOREIGN NATIONAL LICENSE APPROVAL WITH PROVISOS

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	<b>APPROVE WITH PROVISOS</b>		
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; padding: 2px;">License Number: 050461446</td> <td style="width: 33%; padding: 2px;">Date Issued: 08/23/2013</td> <td style="width: 33%; padding: 2px;">Months Valid: 48</td> </tr> </table>	License Number: 050461446	Date Issued: 08/23/2013
License Number: 050461446	Date Issued: 08/23/2013	Months Valid: 48	
<p>License is hereby granted to the applicant for the commodity described in the attached application to be permanently exported from the United States. This license may be revoked, suspended, or amended by the Secretary of State without prior notice whenever the Secretary deems such action advisable.</p> <p>The United States Government position on this case consists of this 1 page decision memo and the attached 6 page application. Both must be present for the USG position to be valid. The POC for this USG action is Laurel Bibby, 202-663-2737, bibbyl@state.gov.</p>			
<p><b>PROVISOS:</b></p> <p>NO OBJECTION, SUBJECT TO THE FOLLOWING PROVISOS/LIMITATIONS:</p> <ol style="list-style-type: none"> <li>1. Data associated with U.S. Government (USG) systems, operations, limitations or capabilities or program that is NOT already in the public domain MUST NOT be offered, discussed, or released.</li> <li>2. Software source code, software design, software development know-how, operating algorithms, and program maintenance documentation MUST NOT be discussed, offered, or released.</li> <li>3. Design methodology, engineering analysis or manufacturing know-how as defined in 22 CFR 124.2(c)(4)(i)-(ii) MUST NOT be released.</li> <li>4. The release of analyses products MUST be limited to test results only.</li> <li>5. The applicant MUST maintain a library of released data and associated documentation, subject to USG inspection and audit.</li> <li>6. This license expires four years from the date of issuance or upon expiration of the foreign person's authorized stay in the U.S., whichever is shorter. This license will remain valid if the foreign person's work authorization is renewed, or submitted for renewal, and there is no lapse in authorization. If the foreign person's employment will exceed four years or there is a lapse in authorization, a new DSP-5 must be submitted no later than 60 days prior to expiration to cover continued employment. ITAR exemptions may not be used to transfer technical data to or perform defense services for the foreign person after expiration of this license.</li> <li>7. This license is limited to the specified foreign person for employment by the applicant. Please refer to the DOTC web notice, Licensing of Foreign Persons Employed by a U.S. Person, for further guidance if the foreign person employee will have contact with parties, U.S. or foreign, other than the applicant. The employing company is responsible for ensuring all disclosures and interactions are within the scope and conditions of this authorization.</li> <li>8. A Non-Disclosure Agreement (NDA) per the Licensing of Foreign Person Employed by a U.S. Person web notice must be executed prior to the release of technical data and/or provision of defense services. A copy of the executed NDA and the applicant's internal controls procedures must be maintained by the applicant per 22 CFR 122.5(a).</li> </ol>			
DSP-05 050461446	Page 1 of 1		

SAMPLE BIS LICENSE