

		<b>U.S. Export Controls</b>		<b>REV:A</b>
<b>APPROVAL</b>	<b>DATE</b>	<b>International Trade Compliance</b>	<b>PROCESS OWNER</b> Nancy Wood	<b>DATE</b> 5/16/10

### 1.0 Purpose

This policy and procedure applies to commercial/military commodities and technical data exported from Svtronics, Inc, which may be subject to United States Government laws, rules and regulations as specified in the International Traffic in Arms Regulations (ITAR), Export Administration Regulations (EAR) and other various government agencies. U.S. export controls are designed to protect companies and the U.S. national security by restricting sales and exports of restricted commodities to undesirable entities, countries, organizations and individuals. Svtronic's employees and executive staff is committed to complying with the Arms Export Control Act (AECA), Export Administration Regulations (EAR), International Traffic and Arms Regulations (ITAR) and all other applicable U.S. export control laws.

### 2.0 Scope

Exporting is a major contributor to the success of Svtronics, Inc. It is imperative that every employee, contractor, and sales representative understand and acknowledge the importance of complying with export regulations that govern the exchange of hardware and technical information.

### 3.0 Responsibilities

#### Responsibility: Management

- Disseminate to all employees the Svtronics Export Control Policy and Procedure
- Update and send notice advising of the Blacklist and Country Embargo list to Executive, Sales, Supply Chain, and CSR personnel quarterly i.e. Jan, April, July and October.
- Provide relevant export procedures, organizational structure and resource to support the Policy
- Direct and provide assistance to key departments in support of Policy
- Maintain permanent record of all export licenses issued.
- Provide objectives for all employees to support all export laws, rules and regulations
- Assign responsibility in support of the export Policy
- Support a continuing education program and provide tools required in order to be in compliance and full understanding of changing export laws, rules and regulations

#### Responsibility: Manager: Supply Chain and Materials Management

- Review the quarterly (Jan, April, July, Oct) Blacklist and Country embargo list
- Ensure Shipping employees obtain, verifies, documents and files export license copies, files AES or other relevant information prior to making shipment of any USML items.
- Refers any discrepancies or possible/actual violations to the Manager, Trade Compliance
- Maintain, record and monitor dollar amounts shipped against an export license
- Ensure warning notices regarding export control commodities are prominently displayed on packing list.
- Ensure Shipper's export Declaration (SED now known as AES) is filed for commodities requiring an export license or value of \$2500 or greater

Responsibility: All sales, agents and consultants acting on behalf of the company

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- Review the quarterly (Jan, April, July, Oct) Blacklist and Country embargo notice and return acknowledgement by email or in writing within the time specified on the notice e.g. usually 30 days
- Ensure customers, new and existing are not blacklisted or denied trade restrictions of any kind by using available tools.
- Advise customers of export license requirements when necessary
- For blacklisted or denied trade restrictions person/entities, follow the principle that all sales personnel have a duty to inquire as to who the end user is when selling commodities. Selling controlled items to a broker or other middleman that resells to a known Blacklist/denied party is illegal and against Company policy and subject to serve fines, penalties and /or loss of export privileges
- Notify upper management of any potential or actual violations

## Responsibility: Engineering

- Review the quarterly (Jan, April, July, Oct) Blacklist notice and return acknowledgement by email or in writing within the time specified on the notice e.g. usually 30 days
- Assist Trade Compliance personnel with technical parameters of commodities to ensure accurate classification of the article
- Ensure that controlled technical information is via phone, email etc is not given to unauthorized/blacklisted Customers

## Definitions/Acronyms

**Automated Export System (AES):** an electronic filing of Shipper's Export Declarations (SEDs) for census purposes

**Bureau of Industry and Security (BIS):** A regulatory agency responsible for the licensing and monitoring of items for export for commercial and dual use i.e. commercial and military applications  
**Commerce Control List:** is a list of items controlled under the Bureau of Industry and Security that can be found in part 774 of the EAR.

**Denied Persons List:** In general contains a list of individuals reported to have violated U.S. export laws and as a result transactions with these persons are prohibited

**Entity List:** Normally contains entities and countries known to proliferate weapons of mass destruction and are prohibited from conducting any transactions.

**Defense Article:** an article classified under the USML

**Export:** typically the physical action of shipping an article to a foreign destination but also includes transferring controlled commodities to foreign persons via oral communication, writing, fax, email, visually or physical exchange. It is also the movement of goods through regular mail, hand carried items on an airplane, set of schematics sent via email international and/or controlled software uploaded or downloaded.

**End-user:** the individual that receives and ultimately uses the exported item.

**Export Control Classification Number (ECCN):** an alphanumeric number that assist in identifying items controlled by the Commerce Control List of the BIS

**Export License:** approval documentation issued by the appropriate agency that allows applicant to export a regulated article, data or service

**Foreign intermediate consignee:** individual or entity that will receive article during the course of shipment to the temp/perm end-user.

**International Traffic and Arms Regulations (ITAR)** controls the exports of articles, services and related technical data that are military or more specifically possess military specification.

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Manufacturing Licensing Agreement: Grants a U.S. person to allow a foreign person/company to manufacture defense article or perform a service abroad.

**Munitions List (USML):** articles, services or data determined to be defense articles and defense services pursuant to the Arms Export Control Act.

**Office of Foreign Assets (OFAC):** a part of the US Department of Treasury licensed exports to certain embargoed countries and sanctioned individuals and organizations.

Schedule B: are 10 digit number commodity codes used to identify exported products for trade statistics purposes.

**Shipper's Export Declaration/Automated Export System (SED/AES):** a document used that must be submitted, under certain circumstances, when exporting an article for U.S. trade statistics purposes and enforcing Export regulations.

**Technical data:** consist of specific information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of said technologies. This can be in the form of diagrams, engineering designs, blue prints, plans, diagrams, models etc.

## Procedure

United States export controls exist to protect the national security and foreign policy interests of this country. Export controls govern the **shipment, transmission, or transfer** of certain sensitive **items, information or software** to foreign persons or entities. Where applicable, they may require authorization from the US Government in the form of an export license. Any person or company engaging in the business of either manufacturing or exporting defense articles or furnishing defense services is required to register with the United States Office of Defense Controls (ODTC).

### A. Registration and Classification

Any person or company in the business of either manufacturing or exporting article controlled in the Commerce Control List (CCL) must register and apply for an export license with the U.S. Department of Commerce, Bureau of Industry and Security. Svtronic's is a manufacturer of commercial goods some of which contain controlled encryption items, specifically the OMAP Blaze (at time of procedure formulation). Svtronic's is registered with BIS and able to submit license application via SNAP-R. Svtronic's Company Identification Number (CIN) with BIS is **0333921 Pin 42110**.

*Encryption item: OMAP Blaze is covered by license exemption ENC, CCAT G067272 and DLP chip CCAT: G032271. Svtronics, Inc is subject to all U.S. Government laws, rules and regulations governing export controls policies as stipulated by the U.S. government. The export control laws, rules, and regulations, for purposes of this procedure/policy, generally fall into one of three classifications*

- Shipments of civilian items
- Shipment of military items
- Shipments subject to identified Blacklist entities, countries, organizations or persons

Civilian items for export are defined and controlled by the **Departments of Commerce** and Treasury laws, rules and regulations. The primary publication regulating civilian shipments is the Export Administration Regulations (EAR) published by the U.S. Department of Commerce. Many civilian items are not export controlled items and do not require an export license to ship outside *the United States*. In this type of situation the term "NLR" is used to describe items that do not require a license. NLR items are primarily, but not exclusively classified under Export Control Classification Number (ECCN) EAR99. ECCN classification for the OMAP Blaze and tablet (at time of publication) containing controlled encrypted hardware is **5A002.A1A**. Some civilian items may require an export license before they can be shipped outside the United State dependent upon the end user/or country of final destination.

### B. Restricted Parties and countries

While ENC exemption applies to most transaction criteria, 740.17 (b)(2) require licenses to certain 'government' end-users not in listed in supplement 3 (below) to date (8/17/2010) this includes:

**Australia Austria Belgium Bulgaria Canada Cyprus Czech Republic Denmark Estonia  
Finland France Germany Greece Hungary Iceland Ireland Italy Japan Latvia Lithuania Luxembourg  
Malta Netherlands New Zealand Norway Poland Portugal Romania Slovakia Slovenia Spain Sweden**

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**The EAR defines civilian items that may require an export license with specific reason for control and should be consulted on a regular basis.**

As of the date of this Export Control Policy and Procedure formulation, there are also general embargos United States has with certain countries. Items should NOT be shipped to the below countries whether a license or license exemption applies:

**Cuba, Iran, N. Korea, Sudan, Syria, Iraq, Rwanda and Syria**

The **Blacklist** are designed to prevent all U.S. companies and U.S. persons from selling to certain entities, countries, organizations and individuals. The blacklisting of these entities is required by law and applies to TMUSA/MTI as a company and to all U.S. persons.

The Blacklist is comprised of various laws, rules and regulations issued by the Dept. of State, Commerce, Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction. OFAC prohibits payments or providing anything of value to sanctioned countries, nationals of some countries and specified entities. Other governmental agencies also play an important role in identification of blacklisted entities prohibited from trade. The prohibited list that makes up the Blacklist include, but are not limited to, the specially designated nationals (SDN), Denied Persons List, Entity List and other lists that may be published by these agencies.

Everyone involved in the sales order entry process has a duty to inquire who the end user is and what the final use of an item will be. Full customer screening is a requirement for every employee. If an Svtronic's employee has reason to suspect a transaction may end up with a Blacklist customer, further review of the customer or outright rejection of the sale is required. See 'Red Flag Indicators' list (Appendix A) when evaluating a customer for Blacklist compliance. IntegrationPoint software is currently used for screening customers against the various lists of Blacklisted individuals, companies, organizations etc. If customer screening determines the end user is not blacklisted, the customer can be accepted and the sale completed.

Penalties for non-compliance with U.S. export controls include:

## ITAR

1. Administrative debarment from participating directly or indirectly in the export of defense articles, including technical data or in the furnishing of defense services for which a license or approval is required.
2. Civil penalties not exceed \$500,000 for each violation involving controls imposed on the export of defense articles and defense services.
3. Criminal penalties not to exceed \$1,000,000 for each violation, imprisonment not more than 10 years, or both for transactions with countries supporting acts of international terrorism under Sec. 2780.

## EAR

1. Individual criminal penalties for willful violations of up to \$250,000 or imprisonment for up to ten years, or both, for each violation.
2. Individual criminal penalties for knowing violations of up to the greater of \$50,000 or five times the value of the exports or imprisonment for up to five years, or both, for each violation.
3. Corporate criminal penalties for willful violations of up to the greater of \$1,000,000 or five times the value of the exports for each violation.

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4. Corporate criminal penalties for knowing violations of up to the greater of \$50,000 or five times the value of the exports for each violation
5. Administrative penalties for each violation, including denial of export privileges, exclusion from practice, and/or the imposition of a fine of up to \$12,000 for each violation, except that the fine for violations involving items controlled for national security reasons is up to \$120,000 for each violation.

## Semi Annual Reporting Requirements

Semi annual reporting is required for exports to all destinations other than Canada, and for reexports from Canada for items described under paragraphs (b)(2) and (b)(3)(iii) of this section. Certain encryption items and transactions are excluded from this reporting requirement, see paragraph (e)(1)(iii) of this section. For information about what must be included in the report and submission requirements, see paragraphs (e)(1)(i) and (e)(1)(ii) of this section respectively. For exports occurring between January 1 and June 30, a report is due no later than August 1 of that year. For exports occurring between July 1 and December 31, a report is due no later than February 1 the following year. These reports **July 30, 2010 License Exceptions** must be provided in electronic form. Recommended file formats for electronic submission include spreadsheets, tabular text or structured text. Exporters may request other reporting arrangements with BIS to better reflect their business models. Reports may be sent electronically to BIS at [crypt@bis.doc.gov](mailto:crypt@bis.doc.gov) and to the ENC Encryption Request Coordinator at [enc@nsa.gov](mailto:enc@nsa.gov), or disks and CDs containing the reports may be sent to the following addresses:

**(A)** Department of Commerce, Bureau of Industry and Security, Office of National Security and Technology Transfer Controls, 14th Street and Pennsylvania Ave., NW, Room 2705, Washington, DC 20230, Attn: Encryption Reports, and

**(B)** Attn: ENC Encryption Request Coordinator, 9800 Savage Road, Suite 6940, Ft. Meade, MD 20755-6000.

## Safety and Environmental Information

n/a

## Associated Documents

U.S. Export Controls Work Instruction  
Automated Export System (AES) Work Instruction

## 8.0 Records

Record Keeping Requirements - ITAR

- Soft or hard copies of all export documentation including financial records, shipping documentation (commercial invoice, SED) for a period of 5 years from date of export, reexport or controlled deemed export
- Unused, expired, expended, suspended or revoked license must be returned immediately to the Dep. of State
- Records to be retained
  - Registration records (§122.5)



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## Appendix A: Red Flag Indicators

According to U.S. Customs

- You are approached by a customer whose identity is not clear.
- The customer or its address is similar to one of the parties listed in the UNSC sanctioned entity list.
- The customer or purchasing agent is reluctant to offer information about the end-use of the item.
- The product's capabilities do not fit the buyer's line of business, such as an order for sophisticated computers for a small bakery.
- The item ordered is incompatible with the technical level of the country to which it is being shipped, such as semi-conductor manufacturing equipment being shipped to a country that has no electronics industry.
- The customer is willing to pay cash for a very expensive item when the terms of sale would normally call for financing
- The customer is unfamiliar with the product's performance characteristics but still wants the product.
- The customer declined routine installation, training, or maintenance services.
- Equipment is to be installed in an area under strict security control, such as an area in, or close to, military facilities, or an area where access is severely restricted.
- The customer has little or no business background.
- The customer usually involved in military related business.
- Delivery dates are vague, or deliveries are planned for out of the way destinations.
- When questioned, the buyer is evasive and especially unclear about whether the purchased product is for domestic use, for export, or for re-export.
- The customer requests shipment or labeling of goods that are inconsistent with usual shipping and labeling practices.
- The shipping route is abnormal for the product and destination.
- The freight forwarding firm is listed as the product's final destination.
- Packaging is inconsistent with the stated method of shipment or destination.
- Equipment is to be installed in a suspicious or unusual location

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## Appendix B:

### Destination Control Statement

"These commodities, technology, or software were exported from the United States in accordance with the export administration regulations. Diversion contrary to U.S. law is prohibited."