

APPENDIX 1 – EXPORT CONTROL ANNEX

ATLAS ELEKTRONIK (UK) LIMITED

(“ATLAS”)

Export Control Annex Relating to ATLAS Contracts, Purchase Orders, Sub-Contracts and Agreements

This is not a stand alone document; it is an annex to a Contract.

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Main Document

1. **Incorporation**

The provisions of this Annex set out the obligations of the Parties in relation to compliance with Export Regulations. This Annex forms part of, and the Parties agree that it is incorporated into, the Contract to which it is attached.

2. **Definitions**

In this Annex, unless the context otherwise requires, the following words and expressions shall have the following meanings:

Term	Definition
“Collaborator”	Means the person or entity whether or not an End User to whom the Company collaborates with in the performance of any part of the pre and post contract activities.
“Company”	Means Atlas Elektronik (UK) Limited
“Contract”	Means the Contract, Purchase Order, Sub-Contract or any agreement entered into between the Parties to which this Annex is attached.
“Contracted Party”	Means the Supplier, Sub-Contractor, Collaborator, or individual with whom the Company has entered into Contract.
“Customer”	Means the person or entity whether or not an End User to whom the Company supplies the Products,
“Dual National”	Means individuals who hold nationality for one or more countries.
“Foreign National”	Means individuals under the terms of this Contract who will receive information related to the Product who do not hold nationality of the country of origin of the Export Controlled Product, and are not Dual Nationals.
“Export Control Prime”	Means the person with responsibility within their organisation in relation to this Contract for all matters involving compliance with Export Regulations.
“End User Statement”	Means a statement about the intended end or final use of the Product or any other equipment or technology into which the Product is incorporated. This statement must be in the format provided in Schedule 2B or in a format required by another licensing authority.

Term	Definition
“End User”	Means the company / organisation or person who represented themselves as the final consignee or End User of the Product within the Contract.
“Export Control Classification Number” or “ECCN”	Means the classification given to a controlled good or technology by Export Regulations.
“Export Licence”	Means all relevant official approvals, licences, authorisations and registrations including licences for re-export and deemed export required from time to time to comply with Export Regulations.
“Export Regulations”	Means the laws, rules, regulations and guidelines relating to export control issued by the home state of both parties and any state that the parties to this Contract give notice that they must comply with in order to perform each and every part of its obligations under the Contract.
“International Trade Regulation Statement”	Means a summary of the applicable Export Regulations prepared in accordance with clause 3.2 and attached at Schedule 1.
“ITAR TAA”	Means either a Technical Assistance Agreement (TAA), Manufacturing Licence Agreement (MLA) or Warehouse Distribution Agreement as required by US International Traffic in Arms Regulations (ITAR).
“Party or Parties”	Means the companies or individuals who have entered into the Contract.
“Product”	Means the product(s), services whether tangible or not and includes services, software, technology and / or know how that are the specific subject matter of this Contract.
“Provisos”	Means US Government restrictions on classified or other sensitive information.

3. **Export Licensing**

- 3.1 The Parties acknowledge that compliance with all applicable Export Regulations is the essence of this Contract. To achieve compliance in a timely manner the Parties shall at all times make full disclosure of all information, applicable Export Regulations or other compliance obligations which may affect the delivery or use of their Products or the performance of their obligations.
- 3.2 The Parties understand that the Product, or any part of the Product, covered by this Contract may be subject to Export Regulations, and that diversion contrary to such Export Regulations is prohibited, and that compliance with these Export Regulations is required prior to the Contract or part thereof being performed.
- 3.3 To ensure that Export Regulations are complied with and are addressed by the Parties in a timely manner, all Parties within 7 days from the date of signature of the Contract shall nominate an Export Control Prime and advise all other Parties, the individuals name and contact details.

4. **International Trade Regulation Statement**

- 4.1 The Contracted Party shall in relation to all obligations regarding export controlled Product complete the International Trade Regulation Statement in the form attached as Schedule 1.
- 4.2 The Contracted Party warrants that the information provided in the International Trade Regulation Statement shall be accurate, complete and not misleading at the time it is supplied, or subsequently supplied.
- 4.3 The Contracted Party accepts that as well as forming a condition of the Contract the International Trade Regulation Statement where provided prior to contracting is also a positive pre-contractual representation. The Contracted Party accepts that the Company has relied on the accuracy and completeness of the International Trade Regulation Statement when entering into this Contract.
- 4.4 The completed International Trade Regulation Statement shall be sent to the Company Export Control Prime in a timely manner in order for the Company to assess and carry out all necessary obligations to ensure compliance with the appropriate Export Regulations.
- 4.5 The Contracted Party shall immediately notify the Company Export Control Prime if at any time the information provided in its International Trade Regulation Statement becomes inaccurate, incomplete or misleading and shall provide the Company Export Control Prime with revised information to ensure that the International Trade Regulation Statement is once again accurate, complete and not misleading.
- 4.6 On receipt of a completed International Trade Regulation Statement the Company Export Control Prime shall reserve the right to raise clarification questions or contest the nature of the proposed compliance judgement undertaken by the Contracted Party.
- 4.7 The Contracted Party's Export Control Prime shall clearly state on the International Trade Regulation Statement the requirement for, and details of, requisite Export Licences.

5. **Obligations Arising Under the Laws of the USA**

- 5.1 The Contracted Party shall include in the International Trade Regulation Statement a specific warranty confirming whether, and if so by virtue of which provisions, its Product are subject to Export Regulations of the United States of America.
- 5.2 For each delivery of Product where US Export Regulations are applicable the Contracted Party shall on its delivery note or covering correspondence confirm the relevant United States Export Control Classification Number and applicable Export Licence number. If there is no delivery note or covering correspondence, the Contracted Party shall ensure the US Export Control Classification Number is otherwise communicated to the Company Export Control Prime prior to shipment.
- 5.3 For the avoidance of doubt if not included in the International Trade Regulation Statement, the Contracted Party must inform the Company Export Control Prime immediately on becoming aware of a requirement to include an ITAR TAA, or any amendments to an approved TAA.
- 5.4 All Parties shall agree to the terms of any ITAR TAA before it is submitted to the relevant authorities for approval, and shall subsequently provide a copy of the approved TAA, including where permitted any provisos, to all named Parties thereon.
- 5.5 The Party arranging the Export Licence will ensure that all other Parties are provided with a copy of the Export Licence certificate, including a copy of all provisos that relate to their compliance obligations, including but not limited to any restrictions on sublicensing, retransfer, any requirements for non-disclosure agreements, limitations

on employees, and any other restrictions or conditions that result in authorisation being more restrictive or not as broad as contemplated in the authorisation or licence application and / or the Contract documentation. Provisos that are classified or that do not relate to the compliance obligations of the purchasing Party may be removed from the copy supplied, if so required by the US Government.

6. **Export Licences**

6.1 The relevant Parties of the Contract shall be responsible for the provision of the following information, where applicable, to the Parties Export Control Prime prior to agreement of the Contract:

- a) an originally signed End User Statement in the format shown at Schedule 2, or in a format as dictated by regulatory requirements;
- b) pertinent details relating to Dual or Foreign Nationals which may have a bearing on Export Licence obligations and compliance;
- c) other such information as is reasonably within the Parties knowledge that would assist in obtaining an Export Licence.

6.2 Where the Contract is for the Company to supply Product, the Contracted Party acknowledges that the acceptance by the Company of the Contract is conditional on the Company obtaining necessary Export Licences to permit the Product to be delivered.

6.3 Where the Contract is for the Contracted Party to supply Product to the Company, the Company acknowledges that the acceptance by the Contracted Party of the Contract is conditional on the Contracted Party obtaining necessary Export Licences to permit the Product to be delivered

6.4 The Parties will undertake at their own expense to obtain all Export Licences that are required to perform their obligations under this Contract.

6.5 The Parties shall at all times remain responsible for taking the necessary steps to achieve compliance with the Export Regulations in order to perform its obligations, enabling timely delivery and operation of the Product by the Company in accordance with the Contract.

6.6 The Parties shall give notice to the other via their respective Export Control Primes where it submits to the jurisdiction of a state which includes a continuing obligation on any other party to obtain authorisations in order to re-export the Product, or to permit the deemed export of the Product to any other Party.

6.7 Where any Party shall not be able, for whatever reason, to obtain an Export Licence sufficient to allow performance on time, or at all, it shall immediately communicate this to the other Party. The Parties shall work together in good faith to resolve the difficulties in obtaining an Export Licence.

6.8 The Company will not be liable for any loss, direct or indirect, that causes delays to delivery as a result of any failure to obtain or be granted an Export Licence.

7. **Obligations on Delivery**

7.1 The Company and the Contracted Party shall provide, where permitted, a copy of any Export Licence including all Provisos, conditions, limitations, restrictions relevant to the obligations of the Parties to the extent permitted by the Export Regulations. It is understood by the Parties that any commercially sensitive information may be blocked out in the copy provided. Any Party that blocks out any commercially sensitive information must identify to the other Party the generic nature of the information blocked out.

8. **Continuing Obligations**

8.1 In the event that the Contracted Party wishes to provide the Product or provide services incorporating the Product in a manner that differs from that originally intended or was originally described in any End User Statement or to a different End User, the Contracted Party will immediately notify the Company Export Control Prime in writing and the Company shall use all reasonable endeavours to obtain revised Export Licences.

8.2 In the event that an Export Licence is formally refused the Company shall endeavour, but shall not be obliged, to replace or modify the Product such that an Export Licence is either not required or not refused while still meeting the Contracted Party's specification.

8.3 Notwithstanding anything to the contrary in this Contract; 1) the Contracted Parties' ability to deliver and support goods fitted with the Product worldwide / or as provided for by the End Use Statement; and 2) the Contracted Party, intermediate consignees or End User's ability to use, operate and maintain the Products worldwide or as provided by the End Use Statement are of the essence of this Contract.

In the event that any Export Regulation would prevent the Contracted Party from complying with this obligation, the Contracted Party shall, at its own expense, and within a timeframe compatible with the Company's business needs either:

i) obtain from the relevant administration any authorisation, with respect to the Product, necessary for the Company to sell and support Products and/or support the provided End-Use Statement for the relevant Contracted Party or End User to continue using, operating and maintaining the Product;

Or

ii) replace or modify the restricted technology so that the Product ceases to infringe the Export Regulations, while fulfilling all requirements defined by this Contract;

without prejudice to the Company's rights to claim for compensation for all costs, damages and losses suffered as a consequence of the said breach and/or to terminate this Contract for The Contracted Party's default.

9. **Exclusion of Liability**

9.1 The Company excludes any liability whatsoever resulting from any Export Regulations information that has been supplied to the Company by the Contracted Party or which the Company then forwards onto any other Party. Liability for all damages, losses and liabilities as a result of non-compliance with its obligations under this Export Control Annex shall remain with the Contracted Party.

SCHEDULES

SCHEDULE 2A: Model covering letter for end-user undertaking

[NAME AND ADDRESS OF END USER ON ORIGINAL HEADED PAPER]

[DATE]

**Atlas Elektronik UK Limited
Meadows Road
Queensway Meadows
Newport
NP19 4SS
United Kingdom**

**FAO: Export Control Administration
Legal Affairs Regulatory Compliance Group**

ATLAS Contract Reference: _____

Dear Sirs / Madam,

I attach a completed End-User Undertaking made on the EEU Form relating to Exporter's reference
..... [EXPORTER'S REFERENCE AT 1b OF EEU MUST BE QUOTED]

Yours sincerely

[SIGNED BY THE SAME SIGNATORY WHO COMPLETED AND SIGNED EEU FORM]

Sign here _____ Date _____
(Signature of official of end-user or consignee)

SCHEDULE 2B: UK End User Undertaking

[TO BE PRINTED ON END USER ORIGINAL HEADED PAPER]

DEPARTMENT OF TRADE AND INDUSTRY

UNITED KINGDOM

END-USER UNDERTAKING

1. Parties

a) Name of UK exporter	b) Exporter's reference
c) Name of consignee	d) Consignee's address
e) Name of end-user	f) End-user's address
g) Is end-user the armed forces or internal security forces of its country? YES/NO (delete one)	h) Specific location where goods will be used or based (if known and if different from (f))

2. Goods

a) Quantity of goods	b) Description of the goods (for consumable goods, include length of time supplies are expected to last)
(If you need to use continuation sheets, each must carry the exporter's reference, and must be originally signed and dated by the same person who signs this form.)	

3. Purpose of the goods

<p>Please set out the specific purposes for which the goods are to be used <i>(Use an appropriate statement from section 3 of the guidance notes, or alternative wording if necessary)</i></p>

Sign here _____ Date _____
(Signature of official of end-user or consignee)

4. End-user undertaking

We - the person or body named at 1(e) - certify that we are the end-user of the goods described in Section 2, which are to be supplied by the exporter named in 1(a). We further certify that we shall use the goods for the purposes described in Section 3; that the goods will not be used for any purpose connected with chemical, biological or nuclear weapons, or missiles capable of delivering such weapons; that they will not be re-exported or otherwise re-sold or transferred if it is known or suspected that they are intended or likely to be used for such purposes; and that the goods, or any replica of them, will not be used in any nuclear explosive activity or un-safeguarded nuclear fuel cycle activity.

Sign here _____ Date _____
(Signature of official of end-user)

Print _____
(Name and title of signatory in capitals)

5. Consignee undertaking (to be completed if Section 4 is not signed)

We - the person or body named at 1(c) - certify that we are the importer of the goods described in Section 2. We further certify that the goods are intended for stock to be held against future orders and EITHER (delete one out of (i) and (ii))

i. *will not be re-exported, sold for export or otherwise transferred from the country where we are based, namely _____.*

OR

ii. *are likely to be transferred to the following countries:*

Sign here _____ Date _____
(Signature of official of consignee)

Print _____
(Name and title of signatory in capitals)

SCHEDULE 2C: END USER UNDERTAKING GUIDANCE NOTES

Section 1: Parties

- a) The exporter should be the person or firm who makes the licence application.
- b) The exporter's reference can be completed by the exporter.
- c & d) The consignee is the person or body to whom the goods are to be sent. If the consignee is the same as the end-user, then please complete as per details in c).
- e to h) The end-user details should be those of the person or body who will receive the goods for end-use.

Section 2: Goods

There is a requirement to understand what the goods are and to be able to compare them with the goods described in the licence application, with a detailed description provided of the main item or items. If, for example, the main item or items are accompanied by a long list of spares or accessories, this should indicate this, but it may not need to spell out all the items individually. If the goods are spares, components or accessories, indicate what they are to be used for, and describe clearly the item in or with which they will be used (e.g. turbine blades for XX engine for YY aircraft).

Section 3: Purpose of the goods

Please select an appropriate statement from the list below or use a suitable alternative that provides the same detail of information.

- a) The Product(s), and related technology of the Company, are to be used by the Contracted Party solely for the following purpose(s).....
- b) The Product(s), and related technology of the Company, are to be incorporated into the ***[state name of the item into which the Product is being incorporated]*** being produced by ***[state name of party incorporating the Product]***, and will therefore lose their identity. The intended end use of the ***[state name of product in which Product of the Company is being incorporated]*** is ***[state end use, including description, and where necessary name of final end system(s) with which Product shall be used]***, and are intended for sale to ***[state intended Customer and countries of sale/ transfer]***, under contract number ***[state contract number(s)]***.
- c) The Product(s), and related technology of the Company, are being purchased on behalf of ***[state name and address of Contracted Party customer]***, and the only activity that our company is undertaking is to purchase the above stated products, and re-selling or transferring the Product to our customer specified in, without any significant change or modification to the product(s).

Relevant de-sensitized extracts of the End User contract ***[state contract number – must correspond with the attached contract correspondence]*** are attached ***[must include a signature page and the deliverables, pricing can be blanked out.]*** to support this end use.

NOTE: If any additional parties are involved in the procurement or distribution of these supplies, please provide details as given in latter paragraph so that a full audit trail is available to facilitate granting of an export licence.

- d) The Product(s), and related technology of the Company, are being purchased by the Contracted Company for the Government End User shown below.

The intended end use is ***[provide full description of end use]***.

Relevant de-sensitized extracts of the End User contract ***[state contract number – must correspond with the attached contract correspondence]*** are attached ***[must include a signature page and the deliverables, pricing can be blanked out.]*** to support this end use.

Section 4: End-user undertaking

To be completed by the body or person, in the country of ultimate destination, who will make final use of the Product.

Section 5: Consignee undertaking

If section 4 is not applicable, this section must be completed by the person or body to whom the Product is to be sent.

NOTE: Renewals - Please note that under current rules by the UK Licensing Authority (DTI) the maximum period of time that an End User Certificate can be valid for is either one year or two years, depending on the type of licence applied for. In this case a renewal of the End User Certificate would be requested by ATLAS, and the Contracted Party is required to issue a new End User Certificate to support the re-application for a renewed Export Licence.