

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

In the Matter of:

Millitech, Inc.
29 Industrial Drive East
Northampton, MA 01060

Respondent

**ORDER RELATING TO
MILLITECH, INC.**

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Millitech, Inc., of Northampton, Massachusetts (“Millitech”), of its intention to initiate an administrative proceeding against Millitech pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to Millitech that alleges that Millitech committed eighteen violations of the Regulations. Specifically, the charges are:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2017). The charged violations occurred in 2011-2014. The Regulations governing the violations at issue are found in the 2011-2014 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2011-2014)). The 2017 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. §§ 4601-4623 (Supp. III 2015). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 Fed. Reg. 39,005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq. (2012)).

Charges 1-18 15 C.F.R. § 764.2(a): Engaging in Prohibited Conduct

On eighteen occasions between on or about October 14, 2011, and on or about July 24, 2014, Millitech engaged in conduct prohibited by the Regulations when it exported items subject to the Regulations from the United States to China and Russia without the required BIS licenses. Specifically, Millitech exported active multiplier chains, items classified under Export Control Classification Number (“ECCN”) 3A001.b.4, controlled on national security and anti-terrorism grounds, and valued in total at approximately \$364,947, without seeking or obtaining the licenses required for these exports pursuant to Section 742.4 of the Regulations.

In so doing, Millitech committed eighteen violations of Section 764.2(a) of the Regulations.

WHEREAS, BIS and Millitech have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, Millitech shall be assessed a civil penalty in the amount of \$230,000. The payment of \$180,000 shall be made to the U.S. Department of Commerce within 30 days of the date of this Order. Payment of the remaining \$50,000 shall be suspended for a period of two years from the date of this Order, and thereafter shall be waived, provided that during this two-year payment probationary period, Millitech has made full and timely payment of \$180,000 as set forth above, has otherwise complied with the terms of the Agreement and this Order, and has committed no other violation of the Act or the Regulations or any order, license, or authorization issued thereunder.

SECOND, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and if payment is not made by the due date

specified herein, Millitech will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

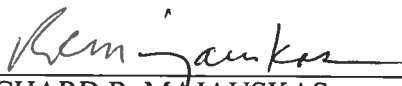
THIRD, the full and timely payment of the civil penalty as set forth above and compliance with the other terms of the Agreement and this Order are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Millitech. Accordingly, if Millitech should fail to pay the civil penalty in a full and timely manner as set forth above or otherwise fail to comply with the terms of the Agreement and this Order, the undersigned may issue an order denying all of Millitech's export privileges under the Regulations for a period of two years from the date of failure to make such payment or other failure to comply.

FOURTH, Millitech shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or this Order. The foregoing does not affect Millitech's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

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FIFTH, the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.



RICHARD R. MAJAUSKAS
Acting Assistant Secretary of Commerce
for Export Enforcement

Issued this 25TH day of September, 2017.

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

Millitech, Inc.
29 Industrial Drive East
Northampton, MA 01060

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Millitech, Inc., of Northampton, Massachusetts (“Millitech”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

WHEREAS, BIS has notified Millitech of its intention to initiate an administrative proceeding against Millitech pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a Proposed Charging Letter to Millitech that alleges that Millitech committed eighteen violations of the Regulations, specifically:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2017). The charged violations occurred in 2011-2014. The Regulations governing the violations at issue are found in the 2011-2014 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2011-2014)). The 2017 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. §§ 4601-4623 (Supp. III 2015). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 Fed. Reg. 39,005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq. (2012)).

Charges 1-18 15 C.F.R. § 764.2(a): Engaging in Prohibited Conduct

On eighteen occasions between on or about October 14, 2011, and on or about July 24, 2014, Millitech engaged in conduct prohibited by the Regulations when it exported items subject to the Regulations from the United States to China and Russia without the required BIS licenses. Specifically, Millitech exported active multiplier chains, items classified under Export Control Classification Number ("ECCN") 3A001.b.4, controlled on national security and anti-terrorism grounds, and valued in total at approximately \$364,947, without seeking or obtaining the licenses required for these exports pursuant to Section 742.4 of the Regulations.

In so doing, Millitech committed eighteen violations of Section 764.2(a) of the Regulations.

WHEREAS, Millitech has reviewed the Proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

WHEREAS, Millitech fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, Millitech enters into this Agreement voluntarily and with full knowledge of its rights, after having consulted with counsel;

WHEREAS, Millitech states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, Millitech neither admits nor denies the allegations contained in the Proposed Charging Letter; and

WHEREAS, Millitech agrees to be bound by the Order, if issued;

NOW, THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over Millitech, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanctions shall be imposed against Millitech:

a. Millitech shall be assessed a civil penalty in the amount of \$230,000. The payment of \$180,000 shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$50,000 shall be suspended for a period of two years from the date of the Order, and thereafter shall be waived, provided that during this two-year payment probationary period under the Order, Millitech has made full and timely payment of \$180,000 as set forth above, has otherwise complied with the terms of this Agreement, and has committed no other violation of the Act or the Regulations or any order, license, or authorization issued thereunder.

b. The full and timely payment of the civil penalty agreed to in Paragraph 2.a and compliance with the other terms of this Agreement are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Millitech. Failure to make full and timely payment of the civil penalty or to otherwise comply with the terms of this Agreement may result in the denial of all of Millitech's export privileges under the Regulations for a period of two years from the date of failure to make such payment or other failure to comply.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Millitech hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if issued), including, without limitation, any right to: (a) receive an administrative hearing regarding the

allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. Millitech also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the Order until Millitech pays in full the civil penalty agreed to in Paragraph 2.a.

4. Millitech shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect Millitech's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

5. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a BIS will not initiate any further administrative proceeding against Millitech in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties

shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. If the Order issues, BIS will make the Proposed Charging Letter, this Agreement, and the Order available to the public.

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10. Each signatory affirms that he/she has authority to enter into this Settlement Agreement and to bind his/her respective party to the terms and conditions set forth herein.


BUREAU OF INDUSTRY AND
SECURITY
U.S. DEPARTMENT OF COMMERCE



Douglas R. Hassebrock
Director of Export Enforcement

Date: September _____, 2017


MILLITECH, INC.



David Moorehouse
President
Millitech, Inc.

Date: September 15, 2017

Reviewed and approved by:



Michelle T. Roberts, Esq.
Berliner Corcoran & Rowe LLP
Counsel for Millitech, Inc.

Date: September 15, 2017



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Office of Export Enforcement
1401 Constitution Avenue, Suite 4508
Washington, DC 20230

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Millitech, Inc.
29 Industrial Drive East
Northhampton, MA 01060

Attn: Mr. David Moorehouse
President

Dear Mr. Moorehouse:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Millitech, Inc., of Northampton, Massachusetts (“Millitech”), has committed eighteen (18) violations of the Export Administration Regulations (the “Regulations”),¹ which issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges the following violations:

Charges 1-18 15 C.F.R. § 764.2 (a): Engaging in Prohibited Conduct

As described in further detail in the attached Schedule of Violations, which is incorporated herein by reference, on eighteen occasions between on or about October 14, 2011, and on or about July 24, 2014, Millitech engaged in conduct prohibited by the Regulations when it exported items subject to the Regulations from the United States to China and Russia without the required BIS licenses. Specifically, Millitech exported active multiplier chains, items classified under Export Control Classification Number (“ECCN”) 3A001.b.4, controlled on national security and anti-terrorism grounds, and valued in total at approximately \$364,947, without seeking or obtaining the licenses required for these exports pursuant to Section 742.4 of the Regulations.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2017). The charged violations occurred in 2011-2014. The Regulations governing the violations at issue are found in the 2011 through 2014 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2011-14)). The 2017 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (available at <http://uscode.house.gov>). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 Fed. Reg. 39,005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq. (2012)).



In so doing, Millitech committed eighteen violations of Section 764.2(a) of the Regulations.

* * * *

Accordingly, Millitech is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

- The maximum civil penalty allowed by law of up to \$289,238 per violation³ or twice the value of the transaction that is the basis of the violation;⁴
- Denial of export privileges; and/or
- Exclusion from practice before BIS.
- Any other liability, sanction, or penalty available under law.

If Millitech fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be *treated* as a default. *See* 15 C.F.R. §§ 766.6 and 766.7. If Millitech defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Millitech. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

Millitech is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. Millitech is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Millitech have a proposal to settle this case, Millitech or its representative should transmit it to the attorney representing BIS named below.

Millitech is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Millitech may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

³ *See* 15 C.F.R. § 6.4(b)(4). This amount is subject to annual increases pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Sec. 701 of Public Law 114-74, enacted on November 2, 2015. *See also* 81 Fed. Reg. 9,532 (Dec. 28, 2016).

⁴ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Millitech's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

In addition, a copy of Millitech's answer must be served on BIS at the following address:

Office of Chief Counsel for Industry and Security
United States Department of Commerce
14th Street and Constitution Avenue, N.W.
Room H-3839
Washington, D.C. 20230
Attention: Gregory Michelsen, Esq.

Gregory Michelsen is the attorney representing BIS in this case; any communications that Millitech may wish to have concerning this matter should occur through him. Mr. Michelsen may be contacted by telephone at (202) 482-5301.

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement

**MILLITECH INC.
SCHEDULE OF VIOLATIONS**

Violation	Date	Sales Order No	Item	ECCN	Total Value (\$)	Destination	Violation
1	14-Oct-11	A15457	Active Multiplier Chains	3A001.b.4	5,890	China	\$764.2 (b)
2	9-Nov-12	A15954	Active Multiplier Chains	3A001.b.4	31,904	China	\$764.2 (b)
3	10-Apr-13	A16184	Active Multiplier Chains	3A001.b.4	8,970	China	\$764.2 (b)
4	2-May-13	A16247	Active Multiplier Chains	3A001.b.4	42,826	China	\$764.2 (b)
5	3-May-13	A16297	Active Multiplier Chains	3A001.b.4	5,375	China	\$764.2 (b)
6	13-May-13	A16171	Active Multiplier Chains	3A001.b.4	3,750	China	\$764.2 (b)
7	17-May-13	A16251	Active Multiplier Chains	3A001.b.4	13,553	China	\$764.2 (b)
8	17-Jun-13	A16307	Active Multiplier Chains	3A001.b.4	7,750	Russia	\$764.2 (b)
9	30-Sep-13	A16479	Active Multiplier Chains	3A001.b.4	11,400	China	\$764.2 (b)
10	7-Nov-13	A16549	Active Multiplier Chains	3A001.b.4	6,000	Russia	\$764.2 (b)
11	21-Feb-14	A16606	Active Multiplier Chains	3A001.b.4	73,224	China	\$764.2 (b)
12	16-May-14	A16875	Active Multiplier Chains	3A001.b.4	4,700	China	\$764.2 (b)
13	22-May-14	A16843	Active Multiplier Chains	3A001.b.4	7,440	China	\$764.2 (b)
14	28-May-14	A16845	Active Multiplier Chains	3A001.b.4	7,440	China	\$764.2 (b)
15	29-May-14	A16773	Active Multiplier Chains	3A001.b.4	55,785	China	\$764.2 (b)
16	29-May-14	A16772	Active Multiplier Chains	3A001.b.4	53,720	China	\$764.2 (b)
17	12-Jun-14	A16827	Active Multiplier Chains	3A001.b.4	9,095	China	\$764.2 (b)
18	24-Jul-14	A16919	Active Multiplier Chains	3A001.b.4	16,125	China	\$764.2 (b)
					364,947		