

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

In the Matter of:

Alfa Laval Inc.
5400 International Trade Drive
Richmond, VA 23231

Alfa Laval Middle East Ltd.
P.O. Box 21467
Dubai, United Arab Emirates

Respondent

ORDER RELATING TO
ALFA LAVAL INC. AND ALFA LAVAL MIDDLE EAST LTD.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Alfa Laval Inc., of Richmond, VA, (“Alfa Laval US”) and Alfa Laval Middle East Ltd., of Dubai, United Arab Emirates (“Alfa Laval Middle East”), of its intention to initiate an administrative proceeding against Alfa Laval US and Alfa Laval Middle East pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ through the issuance of a Proposed Charging Letter to Alfa Laval US and Alfa Laval

¹ The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“the EAA”), which lapsed on August 21, 2001. 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, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. § 1701, et seq. (2012) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. §§ 4801-4852 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

Middle East that alleges that Alfa Laval US and Alfa Laval Middle East committed one violation of the Regulations.² Specifically, the charge is:

Charge 1: 15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation.

In or around March 2016, the operations of Alfa Laval US located in Exton, Pennsylvania (“Alfa Laval Tank”), and Alfa Laval Middle East took prohibited actions, as further detailed below, concerning items subject to the Regulations and exported or to be exported from the United States, with knowledge that a violation of the Regulations had occurred or was about or intended to occur in connection with the items.³ The items involved were two Alfa Laval Gamajet 10 automated tank cleaning machines used to clean underground storage tanks, including oil storage tanks. The items were valued at approximately \$18,585 and designated under the Regulations as EAR99.⁴

In addition to being subject to the Regulations, the items also were subject to the Iranian Transactions and Sanctions Regulations (“ITSR”), 31 C.F.R. Part 560, administered by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”). Pursuant to Section 746.7 of the Regulations, no person could lawfully export or reexport any item subject to the Regulations, if the transaction was prohibited by the ITSR. At all times pertinent hereto, the ITSR prohibited, *inter alia*, the unauthorized exportation, reexportation, sale or supply, directly or indirectly, from the United States to Iran of any goods, technology, or services. 31 C.F.R. § 560.204 (2016). This broad prohibition included the exportation, reexportation, sale or supply of items from the United States to a third country undertaken with knowledge or reason to know that the items were intended for supply, transshipment or reexportation, directly or indirectly, to Iran. *Id.*

On or about March 8, 2016, Alfa Laval Middle East ordered the items from Alfa Laval Tank, and on or about March 26, 2016, Alfa Laval Tank sold and transferred the items

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2020). The charged violations occurred in 2016. The Regulations governing the violations at issue are found in the 2016 version of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2016). The 2020 version of the Regulations establish the procedures that apply to this matter.

³ See 15 C.F.R. § 772.1 (“Knowledge of a circumstance (the term may be a variant, such as ‘know,’ ‘reason to know,’ or ‘reason to believe’) includes not only positive knowledge that the circumstance exists or is substantially certain to occur, but also an awareness of a high probability of its existence or future occurrence. Such awareness is inferred from evidence of the conscious disregard of facts known to a person and is also inferred from a person’s willful avoidance of facts.”) (Parenthetical and internal quotations in original).

⁴ EAR99 is a designation for items subject to the Regulations but not listed on the CCL. See 15 C.F.R. §§ 734.3(c) and 772.1.

with knowledge that a violation of the Regulations was intended or about to occur in connection with the items, specifically, that the items were about or intended to be transshipped to Iran, via the United Arab Emirates (UAE), without the required U.S. Government authorization.

The United States has a long-standing and well-known trade embargo against Iran, of which Respondents had specific knowledge at all times pertinent hereto. When Alfa Laval Tank received a sales inquiry from Alborz Pakshe Parnia Company (“Alborz”), an Iranian company, Alfa Laval Tank, via its Vice-President for International Business Relations, initially declined the sale on or about August 17, 2015, citing the Iranian embargo and informing Alborz that all sales inquiries should go to Alfa Laval Middle East because Alfa Laval Tank “can not [sic] sell US made equipment into your country at this time.” Thereafter, upon reviewing Alborz’s sales inquiry, Alfa Laval Middle East advised Alfa Laval Iran Co. Ltd. (“Alfa Laval Iran”) on or about August 24, 2015, that “this is US product and so far it is not allowed to sell in Iran.”

Notwithstanding this specific knowledge, Alfa Laval Tank and Alfa Laval Middle East continued to engage in discussions about a possible sale and export of the items to Iran. On or about September 22, 2015, Alfa Laval Iran informed Alfa Laval Tank and Alfa Laval Middle East that it had met with Alborz in Iran and asked the two Alfa Laval offices to review a proposed quote for Alborz, adding that “of course” we will not do any business unless and until the U.S. sanctions are lifted.

Subsequently, on or about January 27, 2016, Alfa Laval Tank and Alfa Laval Middle East received updated guidance from their parent company concerning the U.S. embargo against Iran, including that: “Most US sanctions remain in place. Any transactions involving US persons, USD, or US origin/content products are still prohibited under the remaining US sanctions on Iran.”⁵

Despite this updated warning that they would be violating the U.S. embargo, Alfa Laval Tank sent a price quote for the items to Alfa Laval Middle East on or about February 11, 2016. The quote specified that the end user was in Iran.

Alfa Laval Tank and Alfa Laval Middle East thereafter continued to discuss the potential sale and exports of the items “for Alborz Pakshe Parnia Company IRAN,” including with regard to questions from Alborz and a diagram of the items with Alborz’s name and Iranian address. On or about February 23, 2016, Alfa Laval Tank responded to Alborz’s questions about the items and sent another quote, which again listed the end user as located in Iran.

Shortly thereafter, on or about March 8, 2016, Alfa Laval Middle East issued an order confirmation to its UAE distributor for the items.

⁵ The Joint Comprehensive Plan of Action came into effect on January 16, 2016.

On or about March 26, 2016, Alfa Laval Tank exported two Gamajets from the United States, falsely listing on the Electronic Export Information (EEI) that Alfa Laval's distributor in the UAE was the ultimate consignee, when, in fact, the items were destined for and ultimately shipped to Alborz in Iran. On or about April 25, 2016, BIS conducted a post-shipment verification at Alfa Laval's distributor in the UAE. The distributor admitted that the items had been sent to Alborz in Iran following negotiations involving Alfa Laval Middle East and Alfa Laval Iran.

In order to avoid duplication regarding transactions involving items subject to both the Regulations and the ITSR, Section 746.7 of the Regulations provided that authorization did not need to be obtained from both BIS and OFAC, but instead that authorization from OFAC under the ITSR was considered authorization for purposes of the Regulations as well. However, no authorization was sought or obtained from BIS, or from OFAC, in connection with the transaction and activities described herein.

In so doing, Alfa Laval US and Alfa Laval Middle East violated Section 764.2(e) of the Regulations, for which they are jointly and severally liable.

WHEREAS, BIS and Alfa Laval US and Alfa Laval Middle East 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;

WHEREAS, in doing so, I have taken into account the settlement agreement that Alfa Laval US and Alfa Laval Middle East have entered with OFAC ("the OFAC settlement agreement");

IT IS THEREFORE ORDERED:

FIRST, Alfa Laval US and Alfa Laval Middle East shall be assessed a civil penalty in the amount of \$215,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of this Order.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2012)), 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, Alfa Laval US and Alfa Laval Middle East 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, that the full and timely payment of the civil penalty in accordance with the payment schedule set forth above and the full and timely payment of the penalty in the OFAC settlement 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 Alfa Laval US and Alfa Laval Middle East. Accordingly, if Alfa Laval US and Alfa Laval Middle East should fail to pay the civil penalty in a full and timely manner or fail to make a full and timely payment of the penalty in the OFAC settlement agreement, the undersigned may issue an order denying all of Alfa Laval US's and Alfa Laval Middle East's export privileges under the Regulations for a period of one year from the date of failure to make such payment.

FOURTH, Alfa Laval US and Alfa Laval Middle East 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 Alfa Laval US's and Alfa Laval Middle East'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.

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.

**KEVIN
KURLAND** Digitally signed by
KEVIN KURLAND
Date: 2021.07.12
16:06:42 -04'00'

Kevin J. Kurland
Acting Assistant Secretary
for Export Enforcement

Issued this 12th day of July, 2021.

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

In the Matter of:

Alfa Laval Inc.
5400 International Trade Drive
Richmond, VA 23231

Alfa Laval Middle East Ltd.
P.O. Box 21467
Dubai, United Arab Emirates

Respondents

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Alfa Laval Inc., of Richmond, VA, (“Alfa Laval US”) and Alfa Laval Middle East Ltd., of Dubai, United Arab Emirates (“Alfa Laval Middle East”), 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

¹ The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“the EAA”), which lapsed on August 21, 2001. 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, including the Notice of August 8, 2018 (83 Fed. Reg. 39,871 (Aug. 13, 2018)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. § 1701, et seq. (2012) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. §§ 4801-4852 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

WHEREAS, BIS has notified Alfa Laval US and Alfa Laval Middle East of its intentions to initiate an administrative proceeding against Alfa Laval US and Alfa Laval Middle East, pursuant to the Regulations;²

WHEREAS, BIS has issued a Proposed Charging Letter to Alfa Laval US and Alfa Laval Middle East that alleges that Alfa Laval US and Alfa Laval Middle East committed one violation of the Regulations, specifically:

Charge 1: 15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation.

In or around March 2016, the operations of Alfa Laval US located in Exton, Pennsylvania (“Alfa Laval Tank”), and Alfa Laval Middle East took prohibited actions, as further detailed below, concerning items subject to the Regulations and exported or to be exported from the United States, with knowledge that a violation of the Regulations had occurred or was about or intended to occur in connection with the items.³ The items involved were two Alfa Laval Gamajet 10 automated tank cleaning machines used to clean underground storage tanks, including oil storage tanks. The items were valued at approximately \$18,585 and designated under the Regulations as EAR99.⁴

In addition to being subject to the Regulations, the items also were subject to the Iranian Transactions and Sanctions Regulations (“ITSR”), 31 C.F.R. Part 560, administered by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”). Pursuant to Section 746.7 of the Regulations, no person could lawfully export or reexport any item subject to the Regulations, if the transaction was prohibited by the ITSR. At all times pertinent hereto, the ITSR prohibited, *inter alia*, the unauthorized exportation, reexportation, sale or supply, directly or indirectly, from the United States to Iran of any goods, technology, or services. 31 C.F.R. § 560.204 (2016). This broad prohibition

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³ See 15 C.F.R. § 772.1 (“Knowledge of a circumstance (the term may be a variant, such as ‘know,’ ‘reason to know,’ or ‘reason to believe’) includes not only positive knowledge that the circumstance exists or is substantially certain to occur, but also an awareness of a high probability of its existence or future occurrence. Such awareness is inferred from evidence of the conscious disregard of facts known to a person and is also inferred from a person’s willful avoidance of facts.”) (Parenthetical and internal quotations in original).

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included the exportation, reexportation, sale or supply of items from the United States to a third country undertaken with knowledge or reason to know that the items were intended for supply, transshipment or reexportation, directly or indirectly, to Iran. *Id.*

On or about March 8, 2016, Alfa Laval Middle East ordered the items from Alfa Laval Tank, and on or about March 26, 2016, Alfa Laval Tank sold and transferred the items with knowledge that a violation of the Regulations was intended or about to occur in connection with items, specifically, that the items were about or intended to be transshipped to Iran, via the United Arab Emirates (UAE), without the required U.S. Government authorization.

The United States has a long-standing and well-known trade embargo against Iran, of which Respondents had specific knowledge at all times pertinent hereto. When Alfa Laval Tank received a sales inquiry from Alborz Pakshe Parnia Company (“Alborz”), an Iranian company, Alfa Laval Tank, via its Vice-President for International Business Relations, initially declined the sale on or about August 17, 2015, citing the Iranian embargo and informing Alborz that all sales inquiries should go to Alfa Laval Middle East because Alfa Laval Tank “can not [sic] sell US made equipment into your country at this time.” Thereafter, upon reviewing Alborz’s sales inquiry, Alfa Laval Middle East advised Alfa Laval Iran Co. Ltd. (“Alfa Laval Iran”) on or about August 24, 2015, that “this is US product and so far it is not allowed to sell in Iran.”

Notwithstanding this specific knowledge, Alfa Laval Tank and Alfa Laval Middle East continued to engage in discussions about a possible sale and export of the items to Iran. On or about September 22, 2015, Alfa Laval Iran informed Alfa Laval Tank and Alfa Laval Middle East that it had met with Alborz in Iran and asked the two Alfa Laval offices to review a proposed quote for Alborz, adding that “of course” we will not do any business unless and until the U.S. sanctions are lifted.

Subsequently, on or about January 27, 2016, Alfa Laval Tank and Alfa Laval Middle East received updated guidance from their parent company concerning the U.S. embargo against Iran, including that: “Most US sanctions remain in place. Any transactions involving US persons, USD, or US origin/content products are still prohibited under the remaining US sanctions on Iran.”⁵

Despite this updated warning that they would be violating the U.S. embargo, Alfa Laval Tank sent a price quote for the items to Alfa Laval Middle East on or about February 11, 2016. The quote specified that the end user was in Iran.

Alfa Laval Tank and Alfa Laval Middle East thereafter continued to discuss the potential sale and exports of the items “for Alborz Pakshe Parnia Company IRAN,” including with regard to questions from Alborz and a diagram of the items with Alborz’s name and Iranian address. On or about February 23, 2016, Alfa Laval Tank responded to Alborz’s

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questions about the items and sent another quote, which again listed the end user as located in Iran.

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On or about March 26, 2016, Alfa Laval Tank exported two Gamajets from the United States, falsely listing on the Electronic Export Information (EEI) that Alfa Laval's distributor in the UAE was the ultimate consignee, when, in fact, the items were destined for and ultimately shipped to Alborz in Iran. On or about April 25, 2016, BIS conducted a post-shipment verification at Alfa Laval's distributor in the UAE. The distributor admitted that the items had been sent to Alborz in Iran following negotiations involving Alfa Laval Middle East and Alfa Laval Iran.

In order to avoid duplication regarding transactions involving items subject to both the Regulations and the ITSR, Section 746.7 of the Regulations provided that authorization did not need to be obtained from both BIS and OFAC, but instead that authorization from OFAC under the ITSR was considered authorization for purposes of the Regulations as well. However, no authorization was sought or obtained from BIS, or from OFAC, in connection with the transaction and activities described herein.

In so doing, Alfa Laval US and Alfa Laval Middle East violated Section 764.2(e) of the Regulations, for which they are jointly and severally liable.

WHEREAS, Alfa Laval US and Alfa Laval Middle East have reviewed the Proposed Charging Letter and are aware of the allegations made against them and the administrative sanctions that could be imposed against them if the allegations are found to be true;

WHEREAS, Alfa Laval US and Alfa Laval Middle East fully understand 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, Alfa Laval US and Alfa Laval Middle East enter into this Agreement voluntarily and with full knowledge of their rights, after having consulted with counsel;

WHEREAS, the Parties enter into this Agreement having taken into consideration a settlement agreement entered between Alfa Laval US and Alfa Laval Middle East and OFAC related to this matter (“the OFAC settlement agreement”);

WHEREAS, Alfa Laval US and Alfa Laval Middle East state that no promises or representations have been made to them other than the agreements and considerations herein expressed;

WHEREAS, Alfa Laval US and Alfa Laval Middle East neither admit nor deny the allegations contained in the Proposed Charging Letter; and

WHEREAS, Alfa Laval US and Alfa Laval Middle East agree 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 Alfa Laval US and Alfa Laval Middle East, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanction shall be imposed against Alfa Laval US and Alfa Laval Middle East:
 - a. Alfa Laval US and Alfa Laval Middle East shall be assessed a civil penalty in the amount of \$215,000, the payment of which 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.

b. The full and timely payment of the civil penalty agreed to in Paragraph 2.a, above and compliance with the OFAC settlement agreement, including the payment of a civil penalty to OFAC of \$215,695 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 Alfa Laval US and Alfa Laval Middle East. Failure to make full and timely payment of the civil penalty and comply with the OFAC settlement agreement may result in the denial of all of Alfa Laval US's and Alfa Laval Middle East's export privileges under the Regulations for one year from the date of the failure to make such payment.

3. Alfa Laval US and Alfa Laval Middle East 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 Alfa Laval US's and Alfa Laval Middle East's testimonial obligations in any proceeding, nor does it affect their 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.

4. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a above and compliance with the OFAC settlement agreement, BIS will not initiate any further administrative proceeding against Alfa Laval US and Alfa Laval Middle East in connection with any violation of the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

5. 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.

6. 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.

7. 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.

8. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.

9. 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


DAN CLUTCH

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Date: 2021.07.12 15:56:49
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John Sonderman
Director of Export Enforcement

Date: 7/12/2021

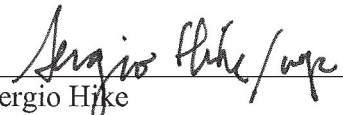
ALFA LAVAL, INC.



William J. Connolly
Vice President and Secretary,
Alfa Laval Inc.


Date: JULY 7 2021

ALFA LAVAL MIDDLE EAST LTD.



Sergio Hike
Managing Director,
Alfa Laval Middle East Ltd.

Date: 8 JULY 2021



Nicholas Coward, Esq.
Alexandre Lamy, Esq.
Geoff Martin, Esq.
Baker & McKenzie, LLP
Counsel for Alfa Laval, Inc. and Alfa Laval
Middle East

Date: July 9, 2021

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Alfa Laval Inc.
5400 International Trade Drive
Richmond, VA 23231

*Attention: Andrew Delaney
General Manager*

Alfa Laval Middle East Ltd.
P.O. Box 21467
Dubai, United Arab Emirates

*Attention: Nicholas Newman
Regional Managing Director*

Dear Mr. Delaney and Mr. Newman:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), has reason to believe that the operations of Alfa Laval Inc. (“Alfa Laval US”) located in Exton, Pennsylvania (“Alfa Laval Tank”), and Alfa Laval Middle East Ltd., of Dubai, United Arab Emirates (“Alfa Laval Middle East”), have violated the Export Administration Regulations (the “Regulations”).¹ Specifically, BIS charges that Alfa Laval US and Alfa Laval Middle East committed the following violation:²

¹ The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“the EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which was extended by successive Presidential Notices, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. § 1701, et seq. (2012) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. §§ 4801-4852 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

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Charge 1: 15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation.

1. In or around March 2016, Alfa Laval Tank and Alfa Laval Middle East took prohibited actions, as further detailed below, concerning items subject to the Regulations and exported or to be exported from the United States, with knowledge that a violation of the Regulations had occurred or was about or intended to occur in connection with the items.³ The items involved were two Alfa Laval Gamajet 10 automated tank cleaning machines used to clean underground storage tanks, including oil storage tanks. The items were valued at approximately \$18,585 and designated under the Regulations as EAR99.⁴
2. In addition to being subject to the Regulations, the items also were subject to the Iranian Transactions and Sanctions Regulations (“ITSR”), 31 C.F.R. Part 560, administered by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”). Pursuant to Section 746.7 of the Regulations, no person could lawfully export or reexport any item subject to the Regulations, if the transaction was prohibited by the ITSR. At all times pertinent hereto, the ITSR prohibited, *inter alia*, the unauthorized exportation, reexportation, sale or supply, directly or indirectly, from the United States to Iran of any goods, technology, or services. 31 C.F.R. § 560.204 (2016). This broad prohibition included the exportation, reexportation, sale or supply of items from the United States to a third country undertaken with knowledge or reason to know that the items were intended for supply, transshipment or reexportation, directly or indirectly, to Iran. *Id.*
3. On or about March 8, 2016, Alfa Laval Middle East ordered the items from Alfa Laval Tank, and on or about March 26, 2016, Alfa Laval Tank sold and transferred the items with knowledge that a violation of the Regulations was intended or about to occur in connection with items, specifically, that the items were about or intended to be transshipped to Iran, via the United Arab Emirates (UAE), without the required U.S. Government authorization.
4. The United States has a long-standing and well-known trade embargo against Iran, of which Respondents had specific knowledge at all times pertinent hereto. When Alfa Laval Tank received a sales inquiry from Alborz Pakshe Parnia Company (“Alborz”), an Iranian company, Alfa Laval Tank, via its Vice-President for International Business

³ See 15 C.F.R. § 772.1 (“Knowledge of a circumstance (the term may be a variant, such as ‘know,’ ‘reason to know,’ or ‘reason to believe’) includes not only positive knowledge that the circumstance exists or is substantially certain to occur, but also an awareness of a high probability of its existence or future occurrence. Such awareness is inferred from evidence of the conscious disregard of facts known to a person and is also inferred from a person’s willful avoidance of facts.”) (Parenthetical and internal quotations in original).

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Relations, initially declined the sale on or about August 17, 2015, citing the Iranian embargo and informing Alborz that all sales inquiries should go to Alfa Laval Middle East because Alfa Laval Tank “can not [sic] sell US made equipment into your country at this time.” Thereafter, upon reviewing Alborz’s sales inquiry, Alfa Laval Middle East advised Alfa Laval Iran Co. Ltd. of Iran (“Alfa Laval Iran”) on or about August 24, 2015, that “this is US product and so far it is not allowed to sell in Iran.”

5. Notwithstanding this specific knowledge, Alfa Laval Tank and Alfa Laval Middle East continued to engage in discussions about a possible sale and export of the items to Iran. On or about September 22, 2015, Alfa Laval Iran informed Alfa Laval Tank and Alfa Laval Middle East that it had met with Alborz in Iran and asked the two Alfa Laval offices to review a proposed quote for Alborz, adding that “of course” we will not do any business unless and until the U.S. sanctions are lifted.
6. Subsequently, on or about January 27, 2016, Alfa Laval Tank and Alfa Laval Middle East received updated guidance from their parent company concerning the U.S. embargo against Iran, including that: “Most US sanctions remain in place. Any transactions involving US persons, USD, or US origin/content products are still prohibited under the remaining US sanctions on Iran.”⁵
7. Despite this updated warning that they would be violating the U.S. embargo, Alfa Laval Tank sent a price quote for the items to Alfa Laval Middle East on or about February 11, 2016. The quote specified that the end user was in Iran.
8. Alfa Laval Tank and Alfa Laval Middle East thereafter continued to discuss the potential sale and exports of the items “for Alborz Pakshe Parnia Company IRAN,” including with regard to questions from Alborz and a diagram of the items with Alborz’s name and Iranian address. On or about February 23, 2016, Alfa Laval Tank responded to Alborz’s questions about the items and sent another quote, which again listed the end user as located in Iran.
9. Shortly thereafter, on or about March 8, 2016, Alfa Laval Middle East issued an order confirmation to its UAE distributor for the items.
10. On or about March 26, 2016, Alfa Laval Tank exported two Gamajets from the United States, falsely listing on the Electronic Export Information (EEI) that Alfa Laval’s distributor in the UAE was the ultimate consignee, when, in fact, the items were destined for and ultimately shipped to Alborz in Iran. On or about April 25, 2016, BIS conducted a post-shipment verification at Alfa Laval’s distributor in the UAE. The distributor admitted that the items had been sent to Alborz in Iran following negotiations involving Alfa Laval Middle East and Alfa Laval Iran.

⁵ The Joint Comprehensive Plan of Action came into effect on January 16, 2016.

11. In order to avoid duplication regarding transactions involving items subject to both the Regulations and the ITSR, Section 746.7 of the Regulations provided that authorization did not need to be obtained from both BIS and OFAC, but instead that authorization from OFAC under the ITSR was considered authorization for purposes of the Regulations as well. However, no authorization was sought or obtained from BIS, or from OFAC, in connection with the transaction and activities described herein.
12. In so doing, Alfa Laval US and Alfa Laval Middle East violated Section 764.2(e) of the Regulations, for which they are jointly and severally liable.

* * * * *

Accordingly, Alfa Laval US and Alfa Laval Middle East are hereby notified that administrative proceedings are instituted against them pursuant to Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions,⁶ including any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$307,922 per violation,⁷ or twice the value of the transaction that is the basis of the violation;⁸
- Denial of export privileges;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

If Alfa Laval US or Alfa Laval Middle East 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 Alfa Laval US or Alfa Laval Middle East defaults, the Administrative Law Judge may find the charge alleged in this letter to be true

⁶ The alleged violations occurred prior to August 13, 2018, the date of enactment of ECRA. Consequently, the potential sanctions are provided for in IEEPA. For violations that occur on or after August 13, 2018, the potential sanctions are specified in Section 1760(c) of ECRA. *See* note 1, *supra*.

⁷ *See* 15 C.F.R. §§ 6.3(c)(4) and 6.4; note 1, *supra*. This amount is subject to annual increases pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Sec. 701 of Pub. L. No. 114-74, enacted on November 2, 2015. *See* 85 Fed. Reg. 207, 208-09 (Jan. 3, 2020) (adjusting for inflation the maximum civil monetary penalty under IEEPA from \$302,584 to \$307,922, effective January 15, 2020).

⁸ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

without a hearing or further notice to the companies. The Under Secretary for Industry and Security may then impose up to the maximum penalty on the charge in this letter.

Alfa Laval US and Alfa Laval Middle East are further notified that they are entitled to an agency hearing on the record if they file a written demand for one with their answer. *See* 15 C.F.R. § 766.6. Alfa Laval US and Alfa Laval Middle East are also entitled to be represented by counsel or other authorized representative who has power of attorney to represent the companies. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

Alfa Laval US and Alfa Laval Middle East are further notified that under the Small Business Regulatory Enforcement Flexibility Act, the company 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/>.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Alfa Laval US or Alfa Laval Middle East have a proposal to settle this case, the companies or their representatives should transmit it to the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, answers from Alfa Laval US and Alfa Laval Middle East must be filed in accordance with the instructions set forth 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, copies of any answers from Alfa Laval US or Alfa Laval Middle East must be served on BIS at the following address:

Office of the 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: Adrienne Frazier, Esq.

Adrienne Frazier is the attorney representing BIS in this case; any communications that Alfa Laval US or Alfa Laval Middle East may wish to have concerning this matter should occur through her. She may be contacted by telephone at (202) 482-5301.

Sincerely,

John Sonderman
Director
Office of Export Enforcement