

Export Control Compliance Supplier Certification

A. Certification

As a potential supplier or subcontractor to California Gasket and Rubber Corporation or its affiliated companies (“CGR”), your company (“Company”) hereby acknowledges that information exchanged between CGR and Company may include the use of, or access to, Export Controlled Technical Data (as defined below). Before entering into technical discussions, or otherwise transferring Export Controlled Technical Data to Company, Company must certify that the following statements are true and that Company will comply with the following export control requirements:

1. Company is incorporated, or registered to do business, in the U.S.
2. Company representative(s) dealing directly with CGR is a U.S. citizen or permanent U.S. resident.
3. Company employees who will have access to Export Controlled Technical Data or Defense Articles (defined below) have been advised of their obligations regarding compliance with export control laws and regulations.
4. Company will comply with all applicable U.S. Government export control laws and regulations before:
(a) disclosing Export Controlled Technical Data or Defense Articles to any person who is not a U.S. citizen or permanent resident; (b) providing any person who is not a U.S. citizen or permanent resident with access to Export Controlled Technical Data or Defense Articles; or (c) assigning any person who is not a U.S. citizen or permanent resident to perform work which requires access to Export Controlled Technical Data or Defense Articles.
5. Company agrees to ensure that the export requirements outlined in this document are also conveyed to all sub-tier suppliers that may have access to Export Controlled Technical Data or Defense Articles.
6. Company will immediately notify CGR if Company is acquired by a foreign entity (government or company) or if Company is owned or controlled (directly or indirectly) by a foreign entity.

B. Export Control Markings

Company agrees to mark any Export Controlled Technical Data or Defense Articles which need to be protected under ITAR (as defined below) or EAR (as defined below) with one or both of the following export control statements:

ITAR Statement

WARNING - This document contains technical data, export of which is restricted by the International Traffic in Arms Regulations (ITAR). Disclosure to foreign persons without prior U.S. Government approval is prohibited. Violations of these export laws and regulations are subject to severe civil and criminal penalties.

EAR Statement

WARNING - This document contains technical data, export of which is restricted by the Export Administration Regulations (EAR). Disclosure to foreign persons without prior U.S. Government approval is prohibited. Violations of these export laws and regulations are subject to severe civil and criminal penalties.

C. ITAR Required Registration

Section 122.1(a) of the ITAR requires that any person who engages in the United States in the business of either manufacturing or exporting Defense Articles or furnishing Defense Services must register with the DDTC (as defined below). Therefore, Company (“Person”) is certifying that it is:

- registered** with DDTC, and that such registration expires on _____, 20__.
- not registered** with DDTC and **not exempt** from such registration.
- not registered** with DDTC **but exempt** from registration with DDTC for the following reason (mark one that applies):
 - Person does not engage in the U.S. in the business of either manufacturing or exporting Defense Articles or furnishing Defense Services. (See ITAR 122.1 (a))
 - Officers and employees of U.S. Government acting in official capacity. (See ITAR 122.1 (b)(1))
 - Person whose pertinent business activity is confined to production of unclassified technical data only. (See ITAR 122.1 (b)(2))
 - Person all of whose manufacturing and export activities are licensed under the Atomic Energy Act of 1954, as amended. (See ITAR 122.1 (b)(3))
 - Person who engages only in the fabrication of articles for experimental or scientific purposes, including research and development. (See ITAR 122.1 (b)(4))

The Company agrees that if it is not registered or does not fall into any of the exemption categories, it acknowledges that it will be required to register with DDTC prior to the manufacture of an ITAR controlled article for CGR.

Company will immediately notify CGR of any changes in its status affecting this certification or affecting Company's standing with the U.S. Government with regard to export/import compliance and/or debarment.

This certification will be incorporated by reference into any resulting purchase order or subcontract issued by CGR.

As a duly authorized representative of Company, you certify by your signature below that Company will comply with all statements in this document and that all such statements regarding Company are true.

Company Name: _____

State of Incorporation: _____

Company Address: _____

By (printed): _____

Signature: _____

Title: _____

Date: _____, 20__

D. Definitions:

“Defense Article” means any item or Technical Data relating to a military application or military related services designated in §121.1 of the ITAR. This term includes Technical Data recorded or stored in any physical form, models, mock-ups or other items that reveal technical data directly relating to items designated in §121.1 of the ITAR, but does not include basic marketing information on function or purpose or general system descriptions. (See ITAR §120.6)

“Defense Service” means (i) the furnishing of assistance (including training) to foreign persons, whether in the United States or abroad, in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles; (ii) the furnishing to foreign persons of any technical data controlled under the ITAR (see §120.10), whether in the United States or abroad; or (iii) military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the United States or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice. (See ITAR §120.9)

“DDTC” means the U.S. Directorate of Defense Trade Controls, which is an agency under the U.S. Department of State, which administers the ITAR.

“Dual Use” means items that have both commercial and military or proliferation applications. This term is used informally to describe items that are subject to the EAR, although certain purely commercial items are also subject to the EAR. (See EAR §772.1)

“EAR” means the Export Administration Regulations promulgated and implemented by the Bureau of Industry and Security and designed to regulate the export of Dual Use items.

“Export Controlled Technical Data” is used to describe all Technical Data that is subject to control under one or more body of regulations governing import or export.

“Foreign Person” means any natural person who is not a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is not a protected individual as defined by 8 U.S.C. 1324b(a)(3). It also means any foreign corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the U.S., as well as international organizations, foreign governments and any agency or subdivision of foreign governments (e.g., diplomatic missions). (22 CFR 120.16)

“ITAR” means the International Traffic in Arms Regulations, as amended, which are promulgated and implemented by Department of State and designed to regulate items on the U.S. Munitions List, including Defense Articles and Defense Services and related Technical Data. (See 22 Code of Federal Regulations 120-130)

“Person” means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization or group, including governmental entities. If a provision in this subchapter does not refer exclusively to a foreign person (§120.16) or U.S. person (§120.15), then it refers to both. (See 22 CFR 120.14)

“Technical Data” has specific meaning under different regulations and can include much more than the common definition would imply. When dealing with import/export compliance issues, Company should always refer to the specific definition in the relevant regulations. For example, the ITAR defines Technical Data to include: any (i) information, other than software as defined in §120.10(a)(4), which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles, including information in the form of blueprints, drawings, photographs, plans, instructions or documentation; (ii) classified information relating to defense articles and defense services; (iii) information covered by an invention secrecy order; (iv) software as defined in §121.8(f) directly related to defense articles. (See ITAR §120.10)

“U.S. Person” means a Person who is lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is a protected individual as defined by 8 U.S.C. 1324b(a)(3). It also means any corporation, business association, partnership, society, trust, or any other entity, organization or group that is incorporated to do business in the U.S. It also includes any governmental (federal, state or local) entity. It does not include any foreign person as defined in section 120.16 of this part. (See 22 CFR 120.15)