

# EXPORT CONTROL POLICY STATEMENT

*Rakar, Incorporated engages in a broad range of precision, high-quality, and hard-to-source manufacturing in the United States. These activities include the sharing and developing of products, goods, hardware, software, or materials (collectively, “items”) and research involving technology that may be subject to U.S. export control laws and regulations. The purpose of this document is to inform all employees and contractors engaged by Rakar, Incorporated in the essential aspects of the laws and regulations concerning exports, confirm our policy for compliance, and explain how the company will provide our researchers with the assistance they may need to ensure compliance with these complicated laws.*

**It is the policy of Rakar, Incorporated to comply with all United States Export Control laws and regulations,** including, but not limited to, those implemented by the Department of Commerce through its Export Administration Regulations (EAR) and the Department of State through its International Traffic in Arms Regulations (ITAR) as well as trade controls imposed by the Treasury Department through its Office of Foreign Assets Control (OFAC).

*Overview of Export Controls*

## BACKGROUND

**United States Export Control laws and regulations are detailed and complex. These laws generally restrict** the export and/or deemed export of certain restricted items, software, or information. (A deemed export occurs when controlled items, software (e.g., encrypted open source code), or information is released to a foreign national within the United States.) The purpose of these laws is to restrict access to items or information that might be contrary to U.S. interests. Export Control laws regulate the content, destination, and recipient of exported items or information. In practice, the impact of Export Control laws is limited to a narrow set of issues and individuals. Despite the narrow scope, it is extremely important for personnel and staff to comply with these laws to avoid significant penalties, including fines and criminal liability. This policy is designed to assist the company community in complying with Export Control laws.

*The Departments of Commerce, State, and Treasury administer the primary controls on exports of goods or commodities. The Department of Commerce regulates the export of items and information with civil applications, the Department of State regulates the export of items with military applications or related to space, and the Department of the Treasury enforces country-specific embargoes. In certain circumstances, these agencies*

*may require the company to secure a license before the item or information is exported to another country or shared with a foreign national.*

### *Department of Commerce Controls*

The Bureau of Industry and Security (“BIS”) of the U.S. Department of Commerce implements and enforces U.S. export control regulations relating to the export of “dual-use” goods and technologies (having both civil and military applications) as well as exclusively civil items. Items subject to the jurisdiction of BIS are listed on the Commerce Control List (“CCL”) found in the Export Administration Regulations.<sup>1</sup> Whether a license is required to export or reexport an item on the CCL is determined by examining the precise classification of the item, destination, and end-user. BIS also maintains the Denied Persons List and the Entities List, which identify specific persons and entities to which exports are not permitted without the prior approval of BIS.

### *Department of State Controls*

The Directorate of Defense Trade Controls, DDTC, of the U.S. Department of State regulates the export of defense goods, technical data, and defense services. DDTC administers the International Traffic in Arms Regulations, ITAR.

<sup>1</sup> CCL covers materials, chemicals, microorganisms, and toxins; materials processing; electronics; computers; telecommunications and information security; lasers and sensors; navigation and avionics materials; marine-related materials; and propulsion systems, certain space vehicles, and related equipment. (The index to the CCL is located at [http://www.gpo.gov/bis/ear/ear\\_data.html](http://www.gpo.gov/bis/ear/ear_data.html).)

As a general rule, a defense article is an item developed for a military application that does not have a predominant civilian application.<sup>2</sup> Unless an exemption applies, a license must be obtained before any defense article is exported to a foreign country or foreign national. Authorization by DDTC is also required for any agreement under which a U.S. person will assist foreign persons in the development, design, production, or use of a defense article or under which a U.S. person will license to a foreign party the right to manufacture U.S.-origin defense articles abroad. DDTC maintains a list of “debarred” persons and entities whose exporting privileges have been revoked as a consequence of violations of the ITAR.

<sup>2</sup> ITAR covers such things as guns and armaments, ammunition, launch vehicles and missiles, explosives and other incendiary agents, vessels of war, tanks and military vehicles, aircraft, military training equipment, protective personnel equipment, fire control equipment, auxiliary military equipment (including cameras and cryptographic devices, software, and components), toxicological agents, spacecraft systems, nuclear weapons,

and classified articles as well as technical data and services that relate to the enumerated categories. (The index to the Munitions List can be found at <http://www.fas.org/spp/starwars/offdocs/itar/p121.htm#ITAR>).

### *Department of Treasury Controls*

The Office of Foreign Assets Control (OFAC) of the U.S. Department of Treasury administers and enforces specific country-specific controls that take the form of economic embargoes against countries, currently including Burma (Myanmar), Cuba, Iran, Iraq, Libya, North Korea, Liberia, Sudan, Syria, and Zimbabwe, more information is available here: <https://ofac.treasury.gov/sanctions-programs-and-country-information>. The scope of these economic and trade embargoes varies from country to country. OFAC has adopted regulations that detail the scope of the embargo against each country. New sanctions were recently imposed against Syria, and restrictions on trade with Iraq and Libya have been significantly reduced.

OFAC also maintains lists of Specially Designated Terrorists and Specially Designated Nationals and Blocked Persons with whom U.S. persons are prohibited from engaging in any transactions due to U.S. foreign policy and national security concerns. Transfers of items and information to individuals or entities on these lists are prohibited without the prior approval of OFAC.

### *Deemed Exports*

In addition to regulating the export of actual goods or commodities, U.S. export controls cover the export or release of “technical data” or technology (which includes information, whether printed, inscribed on media, or communicated orally). The release of such information is called a “deemed export.” Under the deemed export rule, the transfer or release of technical data or information subject to U.S. export controls to a “foreign national,” whether in the United States or abroad, is “deemed” export from the United States to the foreign national's home country. This issue can arise most frequently in connection with the participation of international professional events such as trade shows or collaborators in projects involving controlled technology. Much of the controlled technology that our employees that travel abroad and have access to on-site at Rakar, Incorporated may require licensing unless under the exceptions in the regulations for “fundamental research” or “educational information” under the relevant regulations.

## APPLICABILITY

**Export Control regulations affect specific company functions including, but not limited to, human resources, international clients, research and development, sponsored programs, technology transfer, accounts payable, materials management, and procurement. Export Controls apply to Rakar, Incorporated in various areas/activities, including research, travel outside the U.S., contracting, hiring, and shipping.**

An export or deemed export can occur through a variety of means, including

- Shipping
- Communication – Oral, written, or electronic communication (including emails);
- Procurement
- Access to controlled research, information, or other controlled items
- Visual inspections of any export controlled items, software, or information by a foreign national, whether in the U.S. or abroad
- Hiring and or collaboration with the company by foreign nationals
- Travel

**All persons acting on behalf of Rakar, Incorporated must consider whether Export Controls may apply before or when undertaking any of the following activities:**

- Initiating any new projects including in the following areas: unfunded, funded, under a agreement, or contractual;
- Traveling for any purpose to or communicating by any means with a foreign national from a U.S.-sanctioned country, as listed by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC)\*
- Taking any electronic device that can store or communicate data, such as laptop computers, compact and portable storage devices, GPS systems, phone, mobile devices, and their associated software to another country;
- Taking any controlled items to another country;
- Exporting, releasing, transmitting, or allowing access to controlled research results;
- Participating in professional activities abroad;
- Allowing foreign persons, including but not limited to undergraduate or graduate assistants, colleagues, or other members of the public, to participate or have access to any controlled items, information or research activity;
- Taking receipt of controlled materials from a third party, or
- Making a purchase, hiring professional services, or entering into a contract that contains language that relates to export control provisions, including but not limited to publication

restrictions, sponsor limitations on who may work on the research, Export Control compliance obligations, or Export Control reporting requirements.

- \*Not all persons born and/or raised in a U.S.-sanctioned country or other foreign country are subject to restrictions. Individuals with questions should contact the Company's Export Control Officer

## CONSEQUENCES AND PENALTIES

### *Penalties for Violations*

In the event of a U.S. export control law violation, the company and the individuals involved in the violation may be liable. The exporter and the individual employees involved may be subject to severe administrative and civil sanctions and criminal penalties. For example, “knowing” violations of the EAR are punishable by a fine of up to five times the value of the exports involved, or \$50,000, whichever is greater. “Willful” violations can result in penalties of up to \$1 million per violation. Exports are subject to a strict liability standard, so even negligent exports can trigger fines of \$10,000 to \$120,000 per violation. In addition to fines, individuals may be imprisoned for intentional violations. Penalties can also include the denial of export privileges and debarment from contracting with the federal government. Almost all enforcement actions are public.

## PURPOSE AND SCOPE OF POLICY

**The Export Control policy aims to facilitate compliance with all Export laws, establish procedures for complying with Export Control laws, and ensure our personnel and staff uphold and comply with such laws, policies, and procedures. This policy requires actively managing and monitoring compliance with Export Control laws and authorizing procedures to administer major company functions related to export compliance.**

It is Rakar, Incorporated’s policy that all personnel, including employees, visiting contractors, professional services firms, students, and other persons retained by or working at or for Rakar, Incorporated, conduct their affairs in accordance with U.S. laws and regulations, including compliance with U.S. export control laws and regulations applicable to its operations. The laws and regulations governing exports are detailed and complex. Employees responsible for Rakar, Incorporated’s export-control compliance program or whose duties include a significant amount of work with foreign nationals will be offered formal training sessions on the U.S. export control laws and regulations and

their applicability to their jobs. All Rakar, Incorporated employees with managerial or supervisory authority over foreign nationals or projects involving materials or technology subject to export controls should view export-control compliance as essential to their day-to-day responsibilities. It is particularly important in an institution like Rakar, Incorporated, which frequently works with American companies with sites abroad or outside of the United States and European companies who are allies to the US, to determine early in any international collaboration the potential requirement for export-control authorization.

## RESPONSIBILITY

**It is each employee's responsibility to understand and comply with Export Control requirements** related to his or her work and travel and to ensure that no exports or deemed exports are made contrary to these regulations. As designated by the CEO, an Export Control Officer will provide assistance and oversight to comply with Export Control requirements.

To ensure compliance with these regulations, Rakar, Incorporated has developed a manual, *Rakar, Incorporated Export Control Policies and Procedures*, a copy of which is available on the Rakar, Incorporated website at [www.rakarinc.com/compliance](http://www.rakarinc.com/compliance). No Rakar, Incorporated personnel may transfer any items or technology contrary to U.S. export control laws and regulations or *Rakar, Incorporated Export Control Policies and Procedures*. The policies and procedures include a number of screening steps required before exporting. In addition, the policies and procedures identify people to contact to answer questions about whether specific research activities raise export issues. Failure to comply with these laws and regulations, or failure to comply with the *Rakar, Incorporated Export Control Policies and Procedures*, may result in disciplinary action.

### Contact Information

Rakar, Incorporated is establishing an open-door policy with our Executive Vice-President's Office to ensure compliance with export-control obligations. If you are planning to export materials abroad, engage in international collaborations involving the transfer of materials or equipment, or have any questions about the application of export controls to activities in which you are involved, please contact the Vice President and ITAR Compliance Officer.

**END OF DOCUMENT.**