

## PROPOSED CHARGING LETTER

Ms. Ruth Beyer  
Senior Vice President and General Counsel  
Precision Castparts Corp.  
4650 S. Macadam Ave, Ste. 400  
Portland, Oregon 97238

Re: Charged Violations of the Arms Export Control Act and the  
International Traffic in Arms Regulations by Precision Castparts Corp.

Dear Ms. Beyer:

The Department of State (“Department”) charges Precision Castparts Corp., including its operating divisions, subsidiaries, and business units (collectively “PCC” or “Respondent”), with violations of section 38 of the Arms Export Control Act (“AECA”) (22 U.S.C. 2751 *et seq.*) and Part 127 of the International Traffic in Arms Regulations (“ITAR”) (22 C.F.R. parts 120-130) in connection with unauthorized exports of technical data controlled under United States Munitions List (“USML”) Category XIX to certain foreign person employees. This proposed charging letter covers a total of 24 violations.

The essential facts constituting the alleged violations are described herein. The Department reserves the right to amend this proposed charging letter, including through a revision, to incorporate additional charges stemming from the same misconduct of Respondent. Please be advised that this proposed charging letter, pursuant to 22 C.F.R. § 128.3, provides notice of our intent to impose debarment or civil penalties or both in accordance with 22 C.F.R. §§ 127.7 and 127.10.

When determining the charges to pursue in this matter, the Department considered several aggravating factors, including: (a) the U.S. government assessed that a certain unauthorized export to foreign person employees created a potential for harm to U.S. national security; (b) the violations occurred over an extended period of time and across different ownership; and (c) Respondent did not have internal controls sufficient to prevent employment conditions that led to the violations.

The Department also considered mitigating factors. Most notably: (a) Respondent submitted a voluntary disclosure pursuant to 22 CFR § 127.12 that self-reported facts and circumstances relating to the charged violations; (b) Respondent instituted a number of self-initiated compliance measures intended to detect, deter, and prevent future similar violations; and (c) Respondent cooperated with the Department and entered into multiple agreements with the Directorate of Defense Trade Controls (“DDTC”) tolling the statutory period that applies to enforcement of the AECA and the ITAR.

This proposed charging letter describes certain alleged violations for the time period from July 8, 2017, to April 2019.

### JURISDICTION

Respondent is a corporation organized under the laws of Oregon and a U.S. person within the meaning of section 120.62 of the ITAR. Respondent is subject to the jurisdiction of the United States.

During the period covered by the violations set forth herein, Respondent was engaged in the manufacture and export of defense articles and was registered with DDTC as a manufacturer and exporter, in accordance with section 38 of the AECA and section 122.1 of the ITAR.

The described violations relate to defense articles, including technical data, controlled under Category XIX of the United States Munitions List (“USML”), section 121.1 of the ITAR, at the time the violations occurred.

### BACKGROUND

Respondent’s subsidiaries produce nickel and titanium alloys, metal components, including castings and forgings used in industrial and aerospace gas turbines, fasteners, and aerospace components for commercial and military airframes. Respondent performs work on behalf of multiple aircraft manufacturers in support of U.S. Department of Defense aircraft programs. Respondent has expanded through corporate mergers and acquisitions, and its DDTC registration currently includes over 60 subsidiaries. The Department notes that the violations described herein occurred in Respondent’s wholly owned subsidiary, Mold Masters Intl., LLC (“Mold Masters”). Respondent detected the subsidiary’s insufficient controls in a post-acquisition compliance review of the subsidiary.

## VIOLATIONS

ITAR violations addressed in this proposed charging letter are derived from Respondent submitting one (1) voluntary disclosure to the Department in accordance with ITAR § 127.12. The Department has identified the root cause to be insufficient internal controls at a subsidiary to prevent unauthorized exports of defense articles, including technical data, to foreign-person employees (“FPE”).

### Unauthorized Exports of Technical Data to Foreign-Person Employees

On October 17, 2019, Respondent submitted a full voluntary disclosure describing unauthorized exports of technical data to certain foreign person employees at Respondent’s wholly owned subsidiary, Mold Masters, identified as USML Category XIX(g), pertaining to tools (specifically, wax pattern and core dies) and wax patterns consumed in the subsequent production of casting blades used in gas turbine engines of 5<sup>th</sup> generation fighter aircraft to 46 FPEs, lawfully permitted to work in the United States, from Mexico, El Salvador, Honduras, Bhutan, Peru, and Burundi. Respondent’s subsequent review has confirmed that eight (8) of the wax patterns relate to the hot section components for the 5<sup>th</sup> generation fighter aircraft.

Respondent disclosed that, although these employees had lawful U.S. employment authorization, the prior ownership of Mold Masters’ controls did not validate their U.S.-person status when hiring employees for roles requiring authorization for the export of technical data when performed by foreign persons. Violations persisted when FPEs present at the time of PCC’s acquisition in 2018 continued to work under the same conditions through 2019. Respondent’s subsidiary’s prior record keeping procedures failed to capture information such as specific dates, work assignments, or information on specific technical data.

The U.S. Government reviewed the above-described activities and assessed that certain of Mold Masters’ unauthorized exports to FPEs created the potential for harm to U.S. national security.

## RELEVANT ITAR REQUIREMENTS

The relevant period for the alleged conduct is July 8, 2017, through April 2019. The regulations effective as of the relevant period are described below.

Part 121 of the ITAR identifies the items that are defense articles, technical data, and defense services pursuant to Section 38 of the AECA.

Part 125 describes that the export of technical data, including to a foreign person located in the United States, requires a license or other approval.

Part 127.1(a) describes that it is unlawful to export, import, re-export or re-transfer any defense article or technical data or to furnish any defense service for which a license or written approval is required by the ITAR without first obtaining the required license or written approval from DDTC.

## CHARGES

Charges 1-24: Unauthorized Export of Technical Data to Foreign persons

Respondent violated 22 CFR § 127.1(a)(1) 24 times when it without authorization exported technical data under USML Category XIX to FPEs from Bhutan, Burundi, El Salvador, Honduras, Mexico, and Peru.

## ADMINISTRATIVE PROCEEDINGS

Pursuant to 22 C.F.R. § 128.3(a), administrative proceedings against a respondent are instituted by means of a charging letter for the purpose of obtaining an Order imposing civil administrative sanctions. The Order issued may include an appropriate period of debarment, which shall generally be for a period of three (3) years, but in any event will continue until an application for reinstatement is submitted and approved. Civil penalties, not to exceed the greater of \$1,238,892 or the amount that is twice the value of the transaction that is the basis of the violation with respect to which the penalty is imposed per violation of 22 U.S.C. § 2778, may be imposed as well, in accordance with 22 U.S.C. § 2778(e) and 22 C.F.R. § 127.10.

A respondent has certain rights in such proceedings as described in 22 C.F.R. part 128. This is a proposed charging letter. In the event, however, that the

Department serves Respondent with a charging letter, Respondent is advised of the following:

You are required to answer a charging letter within 30 days after service. If you fail to answer the charging letter, your failure to answer will be taken as an admission of the truth of the charges and you may be held in default. You are entitled to an oral hearing, if a written demand for one is filed with the answer, or within seven (7) days after service of the answer. You may, if so desired, be represented by counsel of your choosing.

Additionally, in the event that Respondent is served with a charging letter, Respondent's answer, written demand for oral hearing (if any), and supporting evidence required by 22 C.F.R. § 128.5(b), shall be in duplicate and mailed to the administrative law judge designated by the Department to hear the case at the following address:

USCG, Office of Administrative Law Judges G-CJ,  
2100 Second Street, SW  
Room 6302  
Washington, DC 20593.

A copy shall be simultaneously mailed to the Deputy Assistant Secretary for Defense Trade Controls:

Deputy Assistant Secretary Michael Vaccaro  
U.S. Department of State  
PM/DDTC  
SA-1, 12th Floor  
2401 E Street, NW  
Washington, DC 20522-0112.

If a Respondent does not demand an oral hearing, Respondent must transmit within seven (7) days after service of Respondent's answer, the original or photocopies of all correspondence, papers, records, affidavits, and other documentary or written evidence having any bearing upon or connection with the matters in issue.

Please be advised also that charging letters may be amended upon reasonable notice. Furthermore, pursuant to 22 C.F.R. § 128.11, cases may be settled through consent agreements, including after service of a proposed charging letter.

The U.S. government is free to pursue civil, administrative, and/or criminal enforcement for AECA and ITAR violations. The Department's decision to pursue one type of enforcement action does not preclude it, or any other department or agency, from pursuing another type of enforcement action.

Sincerely,

Michael Vaccaro  
Deputy Assistant Secretary  
Bureau of Political-Military Affairs