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Via E-Mail (publiccomments@bis.doc.gov)

Regulatory Policy Division
Bureau of Industry and Security
U.S. Department of Commerce
Room 2099B
14th Street and Pennsylvania Avenue NW
Washington, DC 20230

ATTN: RIN: 0694-AF87

Re: Export Administration Regulations (EAR): Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List

Dear Sir or Madam:

On behalf of Virgin Galactic, LLC ("Virgin Galactic"), I respectfully submit these comments concerning the proposed rule which describes how certain articles the President determines no longer warrant control under United States Munitions List (USML) Category XV (spacecraft and related items) would be controlled on the Commerce Control List (CCL) under new Export Control Classification Numbers (ECCNs) 9A515, 9B515, 9D515, and 9E515 and existing ECCNs. as issued by the Department of Commerce and published in the Federal Register on May 24, 2013 (78 Fed. Reg. 31431).

The future growth of commercial space tourism globally could hinge largely on how export controls, especially those implemented by the United States, are applied and implemented relative to this industry. It is our view that a strong domestic industry in this emerging field will support the overall strategic and economic standing of the United States.

1. General Comments

Virgin Galactic appreciates the opportunity to comment on the proposed revisions to the U.S. Commerce Control List ("CCL") contained in the proposed rule referenced above. We strongly support the President's Export Control Reform effort and more broadly the

Administration's National Export Initiative. We also appreciate the efforts of the Department of Commerce to revise the CCL and create new ECCNs to capture those commercial space items coming off the USML. A key beneficiary of this effort will be the U.S. commercial satellite industry which should again be competitive in the international market once the proposed rule is implemented.

We are also pleased that the proposed rule would clarify that the "technology required for passenger participation in space travel for space tourism, research or scientific endeavors, or transportation from one point to another for commercial purposes" is not controlled under USML Category XV nor is it controlled under the proposed new ECCN 9E515, but rather falls to EAR99. For this we applaud the Department as well as its sister agency, the U.S. Department of State.

We recognize that the proposed rule reflects the recommendations contained in the so called "Section 1248 Report" to Congress which mandated, as required by the National Defense Authorization Act for Fiscal Year 2010, that the Secretaries of Defense and State carry out an assessment of the risks associated with removing satellites and related components from the USML. As such, manned sub-orbital spaceflight vehicles and systems were not of central focus in the aforementioned report, and this is apparent from reviewing the State Department proposed rule, as all "man-rated" spacecraft would, unfortunately, remain ITAR controlled under USML Category XV(a)(11). This seems inconsistent with the fact that the International Space Station, where humans from a number of countries are working every day, has long been controlled on the CCL, not the USML.

2. Specific Comment on the Proposed New ECCN 9A515

We believe that the intent of Export Control Reform should include lessening controls on items designed and developed for the commercial space tourism industry and moving commercial space items off of the USML and to the CCL. In that regard, we have submitted comments to the Department of State concerning the proposed changes to the USML (ref. 78 F.R. 31444), urging the removal of spacecraft that are "man-rated sub-orbital, orbital, lunar, interplanetary or habitat" so that they may be captured, as appropriate, on the CCL under ECCN 9A515. **We also support the recommendation submitted to BIS by the Commercial Spaceflight Federation (CSF), which proposes to specifically identify "Manned Sub-orbital Spaceflight Vehicles" as being controlled under ECCN 9A515.**

Furthermore, we support CSF's recommendation to define "Manned Sub-orbital Spaceflight Vehicles" as "Suborbital rockets" that are "reusable launch vehicles" and

designed to carry humans onboard. "Suborbital rocket" and "reusable launch vehicle" are defined under Title 14 CFR Chapter III Subchapter A, Part 401.5 as follows:

> "Suborbital Rocket" - Suborbital rocket means a vehicle, rocket-propelled in whole or in part, intended for flight on a suborbital trajectory, and the thrust of which is greater than its lift for the majority of the rocket-powered portion of its ascent.
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> "Reusable Launch Vehicle" - Reusable launch vehicle (RLV) means a launch vehicle that is designed to return to Earth substantially intact and therefore may be launched more than one time or that contains vehicle stages that may be recovered by a launch operator for future use in the operation of a substantially similar launch vehicle.

3. Conclusion

The revision of the Commerce Control List to create new ECCNs to capture items that are coming off the U.S. Munitions List Category XV is an essential element in the Administration's efforts to reform U.S. export controls. A key element of this reform is the modernization of controls to take into consideration the commercial realities facing affected businesses, including the developing commercial space industry.

Virgin Galactic greatly appreciates the hard work of the Government to achieve this objective and we are grateful for the opportunity to provide these comments and would welcome the chance to discuss them further with BIS.

Sincerely,

Bruce Jackson
VP, Trade Controls & Export Strategy