

**DMR 200W Power Amplifier (PA) Bidder's Repository  
Use and Non-Disclosure Agreement (NDA)**

The undersigned, \_\_\_\_\_, an authorized representative of the \_\_\_\_\_, (which is hereinafter referred to as the "Recipient") requests the Government to provide the Recipient with technical data, as listed in the Specifications posted on the NESI website (hereinafter referred to as "Data") in which the Government's rights or access to the Data is otherwise restricted. By submitting this NDA, the recipient represents that it is a U.S. DoD contractor. As used in this agreement, the term "Contractor" means the entity that holds title to the Data. In consideration for receiving such Data, the Recipient agrees to use the Data strictly in accordance with this Agreement:

(1) The Recipient shall:

(a) Use, modify, reproduce, or display Data marked with unlimited rights (if data is unmarked it entails unlimited rights), government purpose rights (or variations thereof), or SBIR data rights legends only for government purposes directly related to its proposal for the DMR 200W PA, under solicitation number N00039-12-R-0002 and shall not do so for any commercial purpose. The Recipient shall not release, perform, display, or disclose these Data, without the express written permission of the DMR 200W PA Procuring Contracting Officer (PCO), to any other company, to include all affiliates and subsidiaries of the above noted company and subcontractors and prospective subcontractors.

(2) Up to two (2) people may be listed as Points of Contact below and receive access to the NESI website; however, these persons are not required to sign the NDA. The points of contact may distribute the Data to others within their organization, provided that the Data is handled in accordance with the applicable distribution statement.

(3) The Recipient agrees to adopt or establish operating procedures and physical security measures designed to protect these Data from inadvertent release or disclosure to unauthorized persons or third parties.

(4) The Recipient agrees to accept these Data "as is" without any Government representation as to suitability for intended use or warranty whatsoever. This disclaimer does not affect any obligation the Government may have regarding Data specified in a contract for the performance of that contract.

(5) The Recipient agrees to indemnify and hold harmless the Government, its agents, and employees from every claim or liability, including attorneys fees, court costs, and expenses arising out of, or in any way related to, the misuse or unauthorized modification, reproduction, release, performance, display, or disclosure of Data received from the Government with restrictive legends by the Recipient or any person to whom the Recipient has released or disclosed the Data.

(6) The Government reserves the right to limit or restrict a Recipient's access to the Data should the Recipient breach any terms or conditions of this agreement. Further, a Recipient's breach may result in violation of the Trade Secrets Act (18 U.S.C. § 1905), which can result in criminal and/or civil penalties.

(7) For data created by a Contractor, the Recipient is also executing this Agreement for the benefit of the Contractor. The Contractor is a third party beneficiary of this Agreement who, in addition to any other rights it may have, is intended to have the rights of direct action against the Recipient or any other person to whom the Recipient has released or disclosed the Data, to seek damages from any breach of this Agreement or to otherwise enforce this Agreement.

(8) The Recipient agrees to destroy these Data, and all copies of the Data in its possession, no later than 30 days after award of the contract resulting from solicitation N00039-12-R-0002 or as otherwise notified by the Government, to have all persons to whom it released the Data do so by that date, and to notify the DMR 200W PA PCO that the Data have been destroyed.

(9) This Agreement shall be effective for the period commencing with the Recipient's execution of this Agreement and ending one year after award of a contract resulting from solicitation N00039-12-R-0002. The obligations imposed by this Agreement shall survive the expiration or termination of the Agreement.

(10) The recipient shall provide a valid DoD contract number, cage code, and contact information for a Government point of contact for the listed contract.

Contract Number \_\_\_\_\_

Cage Code \_\_\_\_\_

Name of Contract Point of Contact \_\_\_\_\_

Phone Number \_\_\_\_\_

E-mail address \_\_\_\_\_

Recipient's Business Name \_\_\_\_\_

By \_\_\_\_\_  
(Authorized Representative's signature)      Date

Representative's Typed Name \_\_\_\_\_

Title \_\_\_\_\_

1) Name of Point of Contact \_\_\_\_\_

E-mail address \_\_\_\_\_

2. Name of Point of Contact \_\_\_\_\_

E-mail address \_\_\_\_\_