

## **CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT**

This Confidentiality and Nondisclosure Agreement (hereinafter "Agreement") is made and entered into in Sterling, Virginia by and between Electronic Instrumentation and Technology, LLC ("EIT" or a "Party"), located at 108 Carpenter Drive, Sterling, Virginia 20164, and \_\_\_\_\_ ("Undersigned" or a "Party") located at \_\_\_\_\_.

WHEREAS, EIT and the Undersigned contemplate mutually beneficial business discussions for the purposes of \_\_\_\_\_; and

WHEREAS, EIT and the Undersigned are willing to exchange confidential business information, provided such exchange is only based on mutual assurances that such information will not be used or disclosed except as permitted under this Agreement.

NOW, THEREFORE, in consideration of the mutual understandings contained in this Agreement, and other good and valuable consideration, EIT and the Undersigned agree as follows:

1. Confidential Information. The term "Confidential Information" as used in this Agreement means all nonpublic or proprietary information of a disclosing Party, including, but not limited to, trade secrets, inventions, formulas, technical data, technical information, access to nonpublic areas of a Party's premises, market research data, market plans, concepts, test results, financial information, customer information, and know-how to accomplish the purpose of this Agreement. Confidential information does not include information that (a) was known to the receiving Party prior to receiving any of the Confidential Information; (b) has become publicly known through no wrongful act of the receiving Party; (c) was received by the receiving Party from a third party having lawful possession of the information and having the right to make such a disclosure; (d) was independently developed by the receiving Party without use of the Confidential Information; and (e) the receiving Party is required by law, or by the requirement of a government agency, to disclose.
2. Access to Nonpublic Areas of a Party's Premises. A Party to this Agreement shall not enter any nonpublic area of the other Party's premises without express authorization from such other Party to do so.
3. Nonuse of Confidential Information. Other than for the purposes of the mutually beneficial business discussions for which the Confidential Information has been disclosed as set forth in this Agreement, the receiving Party agrees that it will not copy or otherwise duplicate the Confidential Information, and shall not make any other use of, either directly or indirectly, any of the Confidential Information it receives from the disclosing Party. The receiving Party further agrees not to use the Confidential Information in any way, or to manufacture or test any product embodying Confidential Information, unless explicitly set forth in this Agreement.
4. Nondisclosure. The receiving Party recognizes the proprietary rights of the disclosing Party in and to the Confidential Information, and agrees to use its best efforts to prevent and protect the Confidential Information, or any part thereof, from disclosure to any person other than the receiving Party's directors, officers, agents and employees having a need for disclosure in connection with receiving Party's authorized use of the Confidential Information. No other disclosure of the Confidential Information is permitted unless the receiving Party secures the express prior written authorization of the disclosing Party, and only if the non-party recipient will agree to receive the Confidential Information pursuant to the terms and conditions set forth in this Agreement.
5. Protection of Secrecy. The receiving Party agrees to take all steps reasonably necessary to protect the secrecy of the Confidential Information received from the disclosing Party, and to prevent the Confidential Information from falling into the public domain or into the possession of unauthorized persons.
6. Compliance with Export Regulations. Confidential Information exchanged in accordance with this Agreement may be subject to U.S. Export Control laws and regulations as currently enacted, or as subsequently modified. Accordingly, the Parties agree to abide by all applicable U.S. Export Control laws and regulations governing the transfer, export or re-export of Confidential Information or technical data. Confidential information or technical data exchanged under this Agreement may contain data that is categorized on either:
  - a. The United States Munitions List and, as such, subject to the International Traffic in Arms Regulations ("ITAR") (22 C.F.R. §§ 120-130); and/or

b. The Commerce Control List (CCL), and as such, subject of the Export Administration Regulations ("EAR") (15 C.F.R. §§730-744).

Accordingly, each Party represents and warrants that it shall not transfer the other Party's Confidential Information or technical data that falls under ITAR or EAR regulations directly or indirectly to any individual, employee, company, or any other entity without first complying with all requirements of the ITAR, the EAR and any other applicable export restrictions, including the requirement of obtaining any export license, if applicable. Confidential Information or technical data that is controlled by the ITAR, EAR or other applicable export restrictions shall not be released to foreign nationals, including foreign national employees, employees' companies, or other entities without first obtaining the appropriate export license or other approval from the U.S. Government. Where the U.S. Government amends the applicable rules, regulations or laws controlling the export of data, the Parties agree to comply with the rules, regulations or laws as amended

7. Ownership of Confidential Information. The receiving Party agrees that all Confidential Information shall remain the property of the disclosing Party, and that the disclosing Party may use such Confidential Information for any purpose without obligation to the receiving Party. Nothing contained herein shall be construed as granting or implying any transfer of rights to the receiving Party in the Confidential Information, including any patents or other intellectual property protecting or relating to the Confidential Information.

8. Return of Confidential Information. All Confidential Information exchanged under this Agreement shall be returned to the disclosing Party at the earlier of (a) the conclusion of the mutually beneficial business discussions contemplated by this Agreement, (b) the request of the disclosing Party, or (c) the termination or expiration of this Agreement.

9. Term, Termination, and Survivability. The term of this Agreement shall be seven (7) years from the Effective Date as indicated here in below; provided, however, this Agreement may be terminated by either Party by giving written notice of termination to the other Party; and further provided, however, the obligations under Paragraphs 3 - 5 shall survive any termination or expiration of this Agreement.

10. No Obligation to Proceed. Nothing in this Agreement shall obligate the Parties to proceed with any transaction or business arrangement between them. Each Party reserves its right at its sole discretion to terminate the discussions contemplated by this Agreement.

11. Severability. This Agreement shall be deemed severable, and if any provision of this Agreement is rendered or deemed void, unenforceable, or otherwise ineffective by operation of law, the other provisions of this Agreement shall not be affected and shall remain in full force and effect, and the Parties shall negotiate in good faith to replace such illegal, void or unenforceable provision with a provision that corresponds as closely as possible to the intentions of the Parties as expressed by such illegal, void or unenforceable provision.

12. Irreparable Injury. Each Party acknowledges that any violation or threatened violation of this Agreement would cause irreparable injury to the Party producing the Confidential Information to which such violation or threatened violation relates, and that money alone would not be sufficient to redress such injury.

13. Entire Agreement. This Agreement contains the final and complete contract of the Parties and supersedes all prior oral or written promises, understandings, or negotiations concerning the subject matter of this Agreement. This Agreement may not be amended, nor any obligation waived, except by a writing signed by the Parties.

14. Nonwaiver. Neither the failure of either Party at any time to enforce any of the provisions of this Agreement nor the granting at any time of any other indulgence shall be construed as a waiver of that provision or of the right of either Party afterwards to enforce that or any other provision.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date").

UNDERSIGNED:

EIT, LLC:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_