

## NONDISCLOSURE AGREEMENT

### CENTER FOR POWER MANAGEMENT INTEGRATION

This Nondisclosure Agreement ("Agreement") is entered into as of the date the last party signs ("Effective Date") and is by and between the Trustees of Dartmouth College, having a place of business at 11 Rope Ferry Road, #6210, Hanover, NH 03755 ("Dartmouth") and \_\_\_\_\_, having a place of business at \_\_\_\_\_, ("Receiving Party"), Dartmouth and Receiving Party each a "Party" and collectively the "Parties."

WHEREAS, Dartmouth is the site of the Center for Power Management Integration ("PMIC"), a National Science Foundation funded Industry University Cooperative Research Center ("IUCRC"), and will present or otherwise disclose certain information developed by its researchers on IUCRC- and PMIC-related projects that are funded by industry membership fees; and

WHEREAS, Receiving Party will attend meetings or presentations as part of an evaluation process in considering membership in the PMIC ("Purpose");

NOW, therefore, in consideration of the foregoing and their mutual covenants, the Parties hereby agree as follows:

1. "Confidential Information" shall mean certain confidential and proprietary information developed by researchers on IUCRC- and PMIC-related projects which Dartmouth discloses to or provides access to Receiving Party, including that which is disclosed in writing, orally, or visually, except for information:
  - a. that is or becomes generally known or available to the public without breach of this Agreement;
  - b. that is known to Receiving Party at the time of disclosure, as evidenced by written records of Receiving Party;
  - c. that is independently developed by Receiving Party, as evidenced by written records of Receiving Party; or
  - d. that is disclosed to Receiving Party in good faith by a third party who has an independent right to such subject matter and information.
2. Receiving Party agrees to (a) hold in confidence and not disclose any and all Confidential Information to any third party and (b) use Confidential Information solely for the Purpose. Receiving Party shall have the right to disclose Confidential Information to employees or agents of its organization ("Representatives") provided that Receiving Party causes such Representatives to be bound to the terms of this Agreement.
3. This Agreement will not preclude disclosure of Confidential Information which is disclosed pursuant to valid court order or other governmental directive, as long as Receiving Party has provided to Dartmouth prompt notice of such order or directive in order to enable Dartmouth to interpose appropriate objections thereto.
4. Confidential Information may be disclosed to and access maintained by Receiving Party for a period of six (6) months ("Term") from the Effective Date. Either Party may terminate this Agreement with thirty (30) days prior written notice to the other Party. No use may be made by the Receiving Party of the Confidential Information after termination or expiration of this Agreement.
5. Unless otherwise specified in writing, all Confidential Information is and shall remain Dartmouth's property. All tangible forms of Confidential Information provided by Dartmouth to Receiving Party, all copies thereof

and all materials containing any such Confidential Information shall be promptly returned upon the earlier of (a) a written request by Dartmouth or (b) the expiration or termination of this Agreement.

6. Receiving Party shall be obligated to maintain the confidentiality of the Confidential Information for a period of three (3) years after the Term of this Agreement.
7. In no event shall Dartmouth be liable for any damages whatsoever, regardless of the form of action, whether in contract, in tort or otherwise, including, but not limited to, any direct, indirect, incidental, special, consequential or punitive damages, any lost profits or damages resulting from Receiving Party's receipt or use of the Confidential Information, even if Dartmouth has been advised, knew or should have known of the possibility thereof. DARTMOUTH MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE CONFIDENTIAL INFORMATION, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT.
8. Nothing contained in this Agreement shall be construed as (i) an obligation to enter into any further agreement concerning the Confidential Information, or (ii) a grant by Dartmouth, either expressly or implicitly, of any rights, by license or otherwise, on or with respect to any patent, other intellectual property rights in software or other invention, discovery or improvement relating to the Confidential Information, which is developed, made, conceived, or acquired prior to or after the date of this Agreement.
9. Receiving Party shall have no right to use Dartmouth's name, trademarks or trade names in any communications, including website content, without Dartmouth's prior written consent.
10. This Agreement expresses the entire agreement and understanding of the Parties with respect to their obligations hereunder and supersedes all prior agreements and understandings relating directly to the Confidential Information disclosed hereunder. This Agreement may not be amended or modified except in writing signed by the authorized representatives of each Party. This Agreement, and the interpretation, construction and enforceability hereof, and all rights and obligations of the Parties, whether arising under this Agreement or otherwise, shall be governed by and construed in accordance with the laws of the State of New Hampshire, without giving effect to its principles of conflict of laws. The sole and exclusive jurisdiction for resolution of any disputes between the Parties shall be in the state and federal courts located in Grafton County, New Hampshire and each of the Parties hereby submits to the jurisdiction of such courts. This Agreement may not be assigned by either Party without the prior written consent of the other Party.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective authorized representatives.

Accepted by: Receiving Party

Trustees of Dartmouth College

Signature: \_ Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Director, Technology Transfer Office

Date: \_\_\_\_\_

Date: \_\_\_\_\_