

## **iNEMI PROJECT PARTICIPATION AGREEMENT**

This Project Participation Agreement is entered into between the International Electronics Manufacturing Initiative, Inc. (“iNEMI”), a Delaware corporation and each of the Members of iNEMI that have signed the iNEMI Membership Agreement, each of which is referred to herein as "Party," or collectively as “Parties”.

### **ARTICLE I - OBJECTIVES OF iNEMI**

#### **1.1 Objectives**

iNEMI is an industry consortium organized to perform pre-competitive research and infrastructure development with a technical focus on the manufacturing of electronic information products that connect to information networks.

To this end, iNEMI will focus on the following objectives:

- (a) Create a technology requirements road map;
- (b) Set technical objectives for materials, process and equipment suppliers, and
- (c) Initiate research, development, and deployment projects with suppliers in conjunction with the aforementioned objectives.

iNEMI will conduct its activities in compliance with all applicable laws, rules and regulations, including, but not limited to, all federal and state antitrust laws, regulations, and court decisions and orders relating thereto. iNEMI will also act at all times in accordance with the iNEMI Bylaws and will fulfill all of its obligations under this Participation Agreement.

#### **1.2 Operational Strategy**

Members may engage in the development of cost-efficient technologies for electronic circuit assembly, interconnect, materials and processes to the extent such technologies are applicable to iNEMI’s objectives.

#### **1.3 Participation**

Subject to this Project Participation Agreement and the iNEMI Bylaws, Members may participate in the accomplishment of iNEMI objectives through the payment of membership fees, participation in road mapping and planning activities, and for iNEMI Participating Organizations participation in the conduct of Projects.

## ARTICLE II - DEFINITIONS

All terms that are defined (in UPPERCASE or Title Case) in the iNEMI Bylaws or in the iNEMI Intellectual Property Policy shall have the same meaning (regardless of case used) in this Project Participation Agreement.

The following definitions shall apply throughout this Project Participation Agreement:

- 2.1 “Member” means a Party to this Agreement other than iNEMI.
- 2.2 “Effective Date” means the same date as the Members iNEMI Membership Agreement.
- 2.3 “Project” means joint or cooperative research or development or evaluation work in the field of electronics equipment, material or processes, that is conducted by two or more Members within the scope of, and under the terms of a Project Statement.
- 2.4 “Project Participant”, as used in reference to a Project means a Member that has:
- a) submitted a written Declaration to the Executive Secretariat of iNEMI as required by Section 2.1 of the statement of INEMI Intellectual Property Policy, which is attached hereto and incorporated by reference into this Agreement;
  - b) signed a Project Statement for such Project; and
  - c) been approved to participate in that Project.
- 2.5 “Statement of Work”, as used in reference to a Project, means a description of objectives and scope of work of the Project, including, as appropriate, specifications, technical milestones, schedule, deliverables, the desired roles and responsibilities (including contributions of personnel, facilities and equipment) of each potential Project Participant.
- 2.6 “Project Manager”, as used in reference to a Project, means an employee of a Project Participant who is designated in the Project Statement to coordinate work on that Project.

- 2.7 “Project Statement” means a document pertaining to a Project, that sets forth or incorporates:
- a) a Statement of Work for research or development work on that Project;
  - b) the iNEMI Intellectual Property Policy which shall (except as otherwise specifically stated in the Project Statement) apply.
  - c) a Declaration under Section 2.1 of the iNEMI Intellectual Property Policy, submitted by each potential Project Participant which includes the rights and obligations of Project Participants with respect to information and intellectual property rights (Background Technology and Project Technology), including any restrictions, limitations or conditions imposed by any of the Declarations incorporated in the Project Statement;
  - d) any proposed restrictions on commercial availability to other (non-participating) Members of products or components to be developed in the Project (such restrictions cannot be created or expanded during the Project without expressed approval of iNEMI); and
  - e) other terms and conditions under which Project Participants will conduct such work which will include the content of the Project Status Report.
  - f) The name of the Project Manager.

## ARTICLE III - FORMATION & MANAGEMENT OF PROJECTS

### 3.1 Project Statements

All joint or several research and/or development activities of any Member(s) that is conducted, or to be conducted under the terms of, and within the scope of, this Project Participation Agreement and the iNEMI Intellectual Property Policy shall be conducted only as part of a Project pursuant to a Project Statement. Neither iNEMI nor any Member shall incur any obligation or obtain any rights with respect to any research or development work, Background Technology or Project Technology, except as set forth in a Project Statement signed by a duly authorized representative of that Member. If there is a conflict between the iNEMI Project Participation Agreement, the iNEMI Intellectual Property Policy, and the Project Statement; the Project Statement shall prevail.

### 3.2 Initiation of Projects

Any Member(s) may propose a Project by submitting a proposed Statement of Work to the Executive Secretariat of iNEMI. If the proposal is acceptable to iNEMI, The Executive Secretariat of iNEMI will forward copies of the proposed Statement of Work to all Members for consideration. Any Member interested in participating in the Project shall submit to the Executive Secretariat of iNEMI and the Project Manager (if identified) a Declaration as provided in Section 2.1 of the iNEMI Intellectual Property Policy. The Executive Secretariat then will assemble and distribute the proposed Project Statement incorporating all of the Declarations of the interested Members. If at least

two (2) Members that are iNEMI Participating Organizations execute the Project Statement, the Project documentation shall be reviewed by the Technical Committee to insure compliance with iNEMI goals and to resolve any Project membership conflict. The Project will then be initiated with any of the other interested Members that have signed the Project Statement.

### 3.3 Adding New Participants

Any other Member interested in participating in a Project, after it has been initiated, shall submit to the Executive Secretariat of iNEMI and the Project Manager its request to join the Project and a Declaration as provided in Section 2.1 of the iNEMI Intellectual Property Policy. If that request is acceptable the iNEMI Technical Committee and the Project Participants, those Project Participants and that interested Member shall sign an amended Project Statement incorporating the Declaration of the new Project Participant.

### 3.4 Affiliated Organization Project Participation

At the request of the Project participants and/or the iNEMI Technical committee any iNEMI Affiliated Organization may be called upon to participate in a Project. An Affiliated Organization's participation in any Project shall be at its sole discretion.

### 3.5 Withdrawal from Participation

Any Project Participant may withdraw from participation in any Project at any time upon written notice to the other Project Participants and the iNEMI Executive Secretariat, provided that any contract commitments and obligations of that Project Participant that are not cancelable, shall survive such withdrawal. Such continuing obligations may relate, for example, to: payment obligations; commitments to purchase or sell components; or obligations to protect confidential information.

### 3.6 Withdrawal of iNEMI Approval

iNEMI may withdraw its approval of any Project at any time upon written notice of no less than 45 days in advance of such withdrawal to the Project Participants. In the event of such withdrawal of iNEMI approval, the Project Participants may agree to continue work on the Project, independent of iNEMI and upon such terms and conditions as they may agree to. Obligations regarding confidential information shall survive withdrawal.

### 3.7 Project Reporting

The Project Manager shall provide status reports to the iNEMI Secretariat (at least quarterly) against major milestones. This information will be provided to all iNEMI Members on a non confidential basis.

## ARTICLE IV - TERM

- 4.1 This Project Participation Agreement for each Member shall commence on the Effective Date of their iNEMI Membership Agreement and shall continue in effect thereafter as long as such Member remains a Member in good standing of iNEMI.

## ARTICLE V - GENERAL

### 5.1 Notices

Any notice to be given in connection with this Project Participation Agreement shall be in writing and shall be deemed given when delivered personally, or by telex or facsimile (provided written confirmation is deposited in the mail on the same day) or within five (5) days after being deposited in the mail, pre-paid registered or certified, return receipt requested, addressed to the Member to be notified at its last-known address.

### 5.2 Governing Law

This Project Participation Agreement shall be governed by and construed and enforced in accordance with the laws of Delaware.

### 5.3 Assignment

No Member may assign any or all of its rights and obligations under this Project Participation Agreement without prior written notice to iNEMI and approval from the Board.

### 5.4 Warranties and Limitations of Liability

No Member makes any warranty or representation that the use of any technology or other information provided pursuant to this agreement will not infringe upon the rights of any third party.

No Member makes any warranty or representation, expressed or implied, concerning the accuracy of any information furnished hereunder, the quality of any results to be achieved by the use of any information furnished hereunder, or to any other matter whatsoever including, but not limited to, its merchantability or fitness for any particular purpose. No Member shall be liable for any incidental, special, indirect, consequential, or punitive damages arising out of this agreement, or the Member's participation in or withdrawal from iNEMI or any project hereunder.

## 5.5 Waivers

The failure of any Party to enforce any right hereunder shall not be deemed a waiver of that right or any continuing or subsequent breach of this Project Participation Agreement.

## 5.6 Severability

If any provision of this Project Participation Agreement is deemed by a court of competent jurisdiction to be invalid, void or unenforceable for any reason, such provision will be stricken and the remainder of this Project Participation Agreement will remain in full force and effect as if this Agreement had been executed without that stricken provision.

## 5.7 Independent Parties

Nothing herein shall be deemed to constitute any Party as an agent or partner of any other Party. No contracts, commitments, statements, or representations made on behalf of any Party shall be binding in any respect on any other Party.

## 5.8 Effect of Terms

The rights and responsibilities set forth in this Agreement shall be presumed to apply to a Project, unless otherwise agreed to in writing in the Project Statement. Nothing herein shall be construed to be limiting the rights of the Project participants to agree upon terms and conditions that they deem appropriate for a Project.

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