

UNC CHARLOTTE SENIOR DESIGN PROGRAM
PARTICIPATION AGREEMENT

This Agreement made this __ day of _____, 201__ (the "Effective Date"), by and between <insert company name>, a <insert name of state in which company is incorporated> corporation having an address at <insert company's address> ("Company"), and University of North Carolina at Charlotte, 9201 University City Blvd., Charlotte, NC 28223 ("UNC Charlotte");

WITNESSETH:

WHEREAS, Company experiences certain design challenges for which it desires potential solutions;

WHEREAS, UNC Charlotte desires to obtain information regarding such design challenges for use in UNC Charlotte's Senior Design Projects course for engineering students;

WHEREAS, Company possesses information relating to its business that it considers to be proprietary and confidential;

WHEREAS, during discussions between the parties, it may be necessary for Company to disclose to UNC Charlotte certain of such information; and

WHEREAS, the parties wish to set forth the conditions under which such proprietary and confidential information will be disclosed.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto agree as follows:

1. Confidential Information. "Confidential Information" shall mean any and all information consisting of data, technical or non-technical, including but not limited to the research, products, software, analyses, compilations, studies, developments, inventions, processes, designs, schematics, drawings, engineering, marketing and finances. The term "Confidential Information" shall also include analyses, compilations, studies, and the like, either in written or electronic format, that are prepared by the receiving party and that contain Confidential Information of the disclosing party. Only Confidential Information either (i) disclosed in writing and indicated to be confidential by a conspicuous marking or (ii) disclosed orally or in other non-written form, indicated to be confidential at the time of disclosure and thereafter summarized in writing and indicated to be confidential by a conspicuous marking and transmitted to the other party within 30 days of such non-written disclosure, shall, in each case, be subject to this Agreement.

Company and UNC Charlotte acknowledge that UNC Charlotte's ability to exercise control over students and former students is limited. At UNC Charlotte's request, Company hereby agrees that Company will not disclose any trade secrets, as defined by N. C. Gen. Stat. 66-152, under this Agreement.

2. Duty of UNC Charlotte. UNC Charlotte agrees use all reasonable means to keep Company's Confidential Information in confidence and not to disclose or use Company's party's Information for any purpose other than the Senior Design Project course without the prior written

consent of Company; provided, however, that nothing herein shall prevent UNC Charlotte from disclosing the Company's Confidential Information to directors, officers, employees, consultants, students, or other representatives of UNC Charlotte (collectively, UNC Charlotte's "Representatives"), if such persons have a need to know such Information for the purposes of evaluating or performing work in the Senior Design Project course and are informed of the confidential nature of the Confidential Information and are obligated to treat such information as confidential.

3. Exceptions. UNC Charlotte shall not be obligated to maintain in confidence or to refrain from disclosing or using Confidential Information or any obvious modification thereof if such information:

- a) was known to the UNC Charlotte prior to being received from Company as evidenced by the receiving party's written records;
- b) is or without the fault of UNC Charlotte or any of its Representatives becomes part of the public domain;
- c) is received by UNC Charlotte from a third party having to the knowledge of UNC Charlotte no obligation of confidence to the other party hereto;
- d) is developed by or on behalf of UNC Charlotte without reliance on the Confidential Information received hereunder as evidenced by UNC Charlotte's written records or other competent evidence;
- e) is required to be disclosed pursuant to the North Carolina Public Records Act (N.C. Gen. Stat. 132-1 et al.) subject to Section 4 below.

4. Compelled Disclosures. In the event UNC Charlotte (or any person to whom it has transmitted the Confidential Information received hereunder) is required by law or legal process to disclose any of such Confidential Information, UNC Charlotte will, where reasonably practicable, provide Company with prompt notice of such event so that Company may intervene to protect the confidentiality of the Confidential Information.

5. Ownership of Information. All written and electronic documents containing Confidential Information and other confidential material in tangible form received by UNC Charlotte under this agreement shall remain the property of Company.

6. Accuracy of Information. UNC Charlotte understands that although Company has endeavored to include in the Confidential Information all information that Company believes to be relevant for the purpose of UNC Charlotte's use, Company makes no representation or warranty as to the accuracy or completeness of the Confidential Information. UNC Charlotte agrees that Company shall not have any liability to UNC Charlotte or to any of its Representatives resulting from the use of the Information or any errors therein or omissions therefrom.

7. Survival. The obligations of Section 2 shall continue for one (1) year from the date following disclosure of the Confidential Information.

8. Use Of The Confidential Information. UNC CHARLOTTE shall, under suitable confidentiality agreements, disclose the Confidential Information to certain students participating in the Senior Design Project. Such students, under the supervision of UNC Charlotte faculty and staff, shall endeavor to develop solutions to the challenges pertaining to the Confidential Information and shall create reports summarizing their work in this regard. In support of such

work to be performed by such students, Company hereby agrees to donate to UNC Charlotte the sum of seven thousand dollars (US\$7,000) within thirty (30) days of the Effective Date of this Agreement.

9. Intellectual Property. In accordance with the statewide policy of the University of North Carolina, the intellectual property, if any, resulting from the Senior Design Project and created or developed solely by UNC Charlotte students or employees shall be owned by UNC Charlotte; provided, however, that Company shall own intellectual property created by a student who (a) is an employee of Company at the time the student performs the Senior Design Project and (b) uses only equipment owned by Company in the performance of the Senior Design Project. Should intellectual property be created jointly by (i) such a student or some other employee of Company and (ii) at least one other student who does not meet both qualification (a) and (b) above, such intellectual property shall be jointly owned by Company and UNC Charlotte and each of Company and UNC Charlotte shall be able to use and/or license such intellectual property as they see fit without accounting to one another. Should any intellectual property be generated which is owned solely by UNC Charlotte, UNC Charlotte shall grant to Company a royalty-free, non-exclusive, perpetual license to such intellectual property to make, have made, use, and sell products and services utilizing such intellectual property so long as Company agrees to indemnify UNC Charlotte for any infringement of intellectual property owned by third parties and/or for any injury or damage resulting from Company's manufacture, use, and/or sale of such products and services. Should Company desire to take an exclusive license to intellectual property owned solely or jointly by UNC Charlotte and should such a license be available, UNC Charlotte shall enter into good faith negotiations for such an exclusive license consistent with Internal Revenue Service Revenue Procedure 2007-047.

10. Entire Agreement & Modifications; Severability; Construction. This document contains the entire agreement between the parties and supersedes all preexisting agreements, whether oral or written, between the parties respecting its subject matter. Modifications or waivers of this agreement shall only be effective if made in writing and signed by both parties. The invalidity of any provision of this agreement will not affect the enforceability of any other provision hereof. The parties have jointly negotiated and drafted this agreement and this agreement shall be interpreted without presumption favoring or disfavoring any party by virtue of authorship of any provision of this agreement. This agreement shall not be assignable, in whole or in part, by either party without the prior consent of the other party, and any such assignment without prior consent shall be void.

11 Counterparts; Facsimile Signatures. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original but all of which when taken together shall constitute a single contract, and shall become effective as of the date first written above. Delivery of an executed signature page to this Agreement by facsimile transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

<Insert name of Company>

University of North Carolina at Charlotte

By: _____

By: _____

Name: _____

Carl P. B. Mahler, II

Title: _____

Executive Director
Office of Technology Transfer
Univ. of North Carolina at Charlotte

Date: _____

Date: _____