

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (Proposed Business Transaction)

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (this "**Agreement**") effective as of _____, 20____ (the "**Effective Date**"), is made and entered into by and between FILSON HOLDINGS, INC., a Delaware corporation with its home office located at 1741 1st Avenue S., Seattle, WA 98314, ("**Filson Holdings**") for and on behalf of itself and its subsidiaries and affiliates (collectively with Filson Holdings, "**Filson**"), and _____, a _____, with an office located at _____,

(the "**Company**"). Each party may be hereinafter referred to individually as a "**Party**" or collectively as the "**Parties**".

In consideration of the mutual promises and covenants contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Purpose.** The Parties wish to explore a business opportunity and/or transaction of mutual interest, and In connection therewith, Filson may disclose to Company, certain confidential creative, technical, and/or business information that Filson desires the Company treat as confidential.

2. "**Confidential Information**" means any and all information disclosed by Filson to the Company, either directly or indirectly, in writing, orally, by inspection of tangible objects, or by observation of systems, methods, processes, designs, concepts, devices, improvements, technologies and other ideas, including without limitation, Filson's operating plans, financial information, business plans, trade secrets and know how, results and prospects, customer, employee, stockholder and supplier information or lists, marketing plans and techniques, product concepts, experimental works, works in progress, research efforts, technical information, data systems, production processes and any other information relating to the projects, technology and business of Filson. Confidential Information may also include information disclosed by Filson to the Company which information was disclosed to Filson by third-parties. Confidential Information shall not, however, include any information which the Company can establish: (a) was publicly known and made generally available in the public domain prior to the time of disclosure to the Company by Filson; (b) becomes publicly known and made generally available after disclosure to the Company by Filson through no action or inaction of the Company; (c) is in the possession of the Company, without confidentiality restrictions, at the time of disclosure by Filson as evidenced by the Company's files and records immediately prior to the time of disclosure; or (d) is independently developed by the Company without reference to any Confidential Information as evidenced by the Company's written files and records.

3. **Non-Use and Non-Disclosure.** The Company hereby agrees not to use any Confidential Information for any purpose whatsoever except to evaluate and engage in discussions concerning a potential business relationship with Filson. The Company hereby agrees not to disclose any Confidential Information to third-parties or to employees of the Company, except to those employees or third party lawyers, accountants, or advisors who are required to have the information in order to evaluate or engage in discussions concerning the contemplated business relationship or to perform work for Filson; *provided, however*, that the non-disclosure and non-use obligations hereunder shall extend to such employees and third party advisors and the **Company shall indemnify and defend Filson therefor.** The Company shall not modify, adapt, alter, translate, reverse engineer, disassemble, create derivative works of, or decompile any prototypes, software, or other tangible objects that embody any Confidential Information. Without the prior written consent of a duly authorized representative of Filson, the Company shall not issue or authorize in any manner whatsoever, directly or indirectly, the dissemination of any publicity or news story relating to: (a) the Confidential Information; or (b) any agreement or proposed agreement by and between the Parties. The Company shall not confirm or deny any information of any kind in any way relating to Filson or its businesses. If the

Company is required by legal process to disclose any Confidential Information, the Company shall not be in breach of this Agreement, but shall provide Filson with prompt prior written notice thereof so that Filson may seek a protective order or other appropriate remedy to prevent or limit disclosure of any Confidential Information. The Company shall reasonably cooperate with Filson's application for a protective order or other remedy. In any event, the Company shall disclose only that portion of the Confidential Information that the Company is legally required to disclose.

4. **Maintenance of Confidentiality.** The Company hereby agrees that it shall take all reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information. Without limiting the foregoing, the Company shall take at least those measures that the Company takes to protect its own most highly confidential information, but in no event less than a reasonable degree of care. The Company shall be fully responsible for any breach of the terms and conditions of this Agreement by any of its employees or agents. The Company shall reproduce Filson's proprietary rights notices on any copies of such documents in the same manner in which such notices were set forth in or on the original. The Company shall promptly notify Filson in the event of any unauthorized use or disclosure of the Confidential Information.

5. **No Obligation.** Nothing in this Agreement shall obligate either Party to proceed with any transaction between them, and each Party reserves the right, in its sole discretion, to terminate the discussions contemplated by this Agreement concerning the business opportunity.

6. **Ownership; No License.** All rights in, and title to, the Confidential Information supplied by Filson to the Company shall remain with Filson. Neither this Agreement nor the disclosure of any Confidential Information will be construed as granting to the Company (either expressly, by implication or estoppel, or otherwise) any license or immunity under any copyright, patent, trade secret, trademark, or other intellectual property right now or hereafter owned or controlled by Filson, or any right to use, exploit or further develop the same, except solely to effectuate the purpose(s) of the relationship contemplated herein.

7. **No Warranty.** ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS." FILSON MAKES NO WARRANTIES, REPRESENTATIONS, GUARANTEES, OR OTHER PROMISES WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, REGARDING THE ACCURACY, COMPLETENESS, OR OTHER PERFORMANCE OF ANY CONFIDENTIAL INFORMATION.

8. **Return of Materials.** All documents and other tangible objects containing or representing Confidential Information and all copies thereof which are in the possession of the Company shall be and remain the property of Filson and shall be immediately returned to Filson or destroyed upon Filson's prior written request.

9. **Intentionally Deleted.**

10. **Term.** This Agreement shall survive until the earlier of the 3rd anniversary of the Effective Date or until such time as all Confidential Information disclosed hereunder becomes publicly known and made generally available through no action or inaction of the Company.

11. **Remedies.** The Company acknowledges that the unauthorized use or disclosure of Filson's Confidential Information could cause Filson irreparable harm and that money damages may be inadequate to compensate Filson for such harm. Accordingly, in addition to any other available remedies, Filson will be entitled to seek equitable relief, including injunctive relief and/or specific performance.

12. **Miscellaneous.** (a) This Agreement shall bind and inure to the benefit of the Parties and their successors and permitted assigns;

(b) This Agreement shall be governed by the laws of the State of Washington, without reference to conflict of laws principles. The Parties hereby expressly and irrevocably consent to the exclusive personal jurisdiction and venue of King County, Washington for any claim arising out of, related to, or in connection with this Agreement; (c) This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements, representations, warranties, guarantees, promises and other understandings of the Parties. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision hereof; (d) This Agreement may not be amended, nor any obligation waived, except by a writing signed by duly authorized representatives of both Parties; (e) Neither Party shall assign this Agreement, nor assign or delegate any rights or obligations hereunder, in whole or in part, without the prior written permission of a duly authorized representative of the other Party; provided, however, that either Party can assign or delegate its rights or obligations without consent of the other Party to its successors whether by purchase, merger, or otherwise. Any attempted assignment in violation of the previous sentence shall be null and void; (f) This Agreement shall be deemed severable, and the invalidity or unenforceability of any term or provision hereof shall not affect the

validity or enforceability of this Agreement or any other term or provision hereof. Furthermore, in lieu of any such invalid or unenforceable term or provision hereof, the Parties shall add as a part of this Agreement a provision as similar in terms to such invalid or unenforceable provision as may be possible to be valid and enforceable; (g) Neither party shall be deemed to be the legal representative or agent of the other Party for any purpose whatsoever, and neither Party is authorized by the other Party to transact business, incur obligations (either express or implied), bill goods, or otherwise act in any manner, in the name or on behalf of the other Party, or to make any promise, warranty, or representation in the name or on behalf of the other Party; (h) The article, section and subsection headings in this Agreement are only inserted for convenience and shall not affect in any way the meaning or interpretation of this Agreement. The language of this Agreement shall be construed simply and according to its fair meaning, and shall not be construed for or against any Party as a result of the source of its draftsmanship; (i) This Agreement may be executed by exchange of signature pages by facsimile and/or in any number of counterparts, each of which shall be an original as against any Party whose signature appears thereon and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representative as of the Effective Date.

Filson Holdings, Inc.

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____