



CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 20_____, between Garmin Canada, Inc., with a place of business at 124 – 30 Bow Street Common, Cochrane, AB, Canada, T4C 2N1 ("Garmin"), and _____, with a place of residence or business at _____ ("Tester").

WHEREAS, Tester desires to supply certain services to Garmin or to customers of Garmin; and

WHEREAS, in connection with the supply of such services, Tester may obtain access to certain confidential and/or proprietary information concerning the business and/or products of Garmin, which Tester acknowledges to be good and valuable consideration for its obligations hereunder;

NOW, THEREFORE, the parties hereto, in consideration of the premises and the provision of confidential and/or proprietary information by Garmin to Tester, do hereby agree as follows:

1. Definition

“Affiliates” as used in this Agreement shall have the meaning given in Section 5(b) hereof.

"Confidential Information" as used in this Agreement shall include, but is not limited to, all non-public information, data, know-how, trade secrets, documentation, hardware, software (including listings thereof and documentation related thereto), diagrams, drawings and specifications relating to Garmin, its business or products, which are disclosed or made available by, or on behalf of Garmin, to Tester.

“Purpose” as used in this Agreement shall have the meaning given in Section 2 hereof.

2. Obligations of Tester

Tester agrees and acknowledges that the Confidential Information is the sole and exclusive property of Garmin and constitutes trade secrets or proprietary or confidential information of Garmin. Tester will not in any manner at any time appropriate, use, or convert to Tester’s own use any of the Confidential Information for any purpose other than for the limited purpose of Product Development to Garmin (the “Purpose”). Tester will not disclose any of the Confidential Information to any person or entity without the prior written consent of an officer of Garmin, provided that Tester may disclose the Confidential Information to Tester’s employees who have a need to know such Confidential Information and who have signed appropriate written agreements sufficient to enable Tester to comply with its obligations hereunder. Tester shall take reasonable precautions, at least as great as the precautions Tester takes to protect Tester’s own confidential information, to keep confidential the Confidential Information. Tester agrees to be responsible for enforcing the terms of this Agreement as to Tester employees and to take such action, including appropriate legal action, as may be necessary to prevent any unauthorized use or disclosure of the Confidential Information by such employees. Tester agrees not to reverse engineer, decompile or disassemble any Confidential Information.

3. Exceptions

The foregoing obligations and restrictions do not apply to that part of the Confidential Information that Tester conclusively establishes (a) was or becomes generally available to the public other than as a result of disclosure by Tester; (b) was or becomes available to Tester on a non-confidential basis from a third party who, to the best of Tester’s knowledge, is not prohibited from transmitting such information by a contractual, legal, fiduciary or other obligation; or (c) was in Tester’s possession at the time of disclosure and was not acquired by Tester from Garmin on a confidential basis.

4. Legal Actions

Notwithstanding any other provision of this Agreement, disclosure of Confidential Information shall not be prohibited if such disclosure is in response to an order of a court or other governmental body; provided, however, that Tester (a) shall first have given reasonable prior written notice of the order to Garmin, (b) shall have made a reasonable effort to obtain a protective order requiring that the Confidential Information so disclosed be used only for the purposes for which the order was made, and (c) shall disclose only such Confidential Information as is required by the order.

5. Permitted Disclosure To and From Affiliates

(a) To accomplish the Purpose, Garmin may involve one or more of its Affiliates in the disclosure of Confidential Information. Confidential Information received from an Affiliate must be treated the same as Confidential Information received from Garmin.

(b) "Affiliates" means (i) a parent company (if any) that owns, directly or indirectly, a majority of a party to this Agreement and (ii) any other company that is majority-owned, directly or indirectly, by a party or its parent company.

6. Return of Documents

At the written request of Garmin, at any time, Tester shall within ten (10) business days after receipt of such request, return to Garmin all documents and other materials (including data stored on disk or tape) obtained from Garmin containing any Confidential Information together with all copies or extracts thereof. Tester shall also destroy all documents and other materials (including data stored on disk or tape) produced by Tester containing any Confidential Information, and shall certify in writing to Garmin that Tester has complied with this provision, including a list of the materials destroyed.

7. No Waiver

No failure or delay by Garmin in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any right, power or privilege hereunder.

8. Indemnification; Remedies

Tester agrees to indemnify and hold harmless Garmin from any damages, losses, costs or liabilities (including reasonable attorneys' fees) arising out of or resulting from any unauthorized use or disclosure by Tester of the Confidential Information. In addition, an award of money damages may not be a sufficient remedy for any breach of this Agreement because any such breach would cause Garmin irreparable harm. Tester, therefore, agrees that Garmin shall be entitled to seek specific performance and injunctive or other equitable relief as a remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for the breach of this Agreement, but shall be in addition to all of the remedies available to Garmin, as the case may be, at law, in equity or by statute.

9. Governing Law, Jurisdiction and Venue

This Agreement shall be governed by and construed in accordance with the internal laws of the State of Kansas, without giving effect to the principles of conflict of laws thereof. The parties agree that the exclusive jurisdiction over and venue in any legal proceeding arising out of or relating to this Agreement shall be the federal or state courts located in the State of Kansas and Tester consents to the jurisdiction of such courts and waives any objection to venue laid therein.

10. Entire Agreement

This Agreement contains the entire understanding between the parties with the respect to the matters contemplated by this Agreement and supersedes all prior written or oral communications, negotiations, understandings or agreements of any kind with respect to such matters.

11. Export

Tester agrees not to transmit any Confidential Information, directly or indirectly, to any country or to any citizen or resident of any country proscribed by the laws or regulations of the United States of America.

12. Term

This Agreement shall come into force on the Effective Date and shall continue in effect until terminated by either party providing thirty (30) calendar days written notice of termination to the other party. No termination shall affect either party's obligations or rights hereunder with respect to Confidential Information disclosed prior to the termination.

13. Amendments

No amendment or modification of this Agreement shall be effective unless made in writing and signed by each of the parties.

14. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement shall not be assignable by either party without the prior written consent of the other party.

15. Authority

Each person executing this Agreement represents and warrants that he or she has the authority to enter into this Agreement on behalf of the corporation set forth above his or her signature below.

16. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions hereof. If any of the covenants or agreements in this Agreement are determined to be unenforceable by reason of extent, scope, duration or otherwise, then the parties contemplate that the court making such determination shall reduce such extent, scope, duration or other provision and enforce them in their reduced form.

17. Notices

All notices required or permitted hereunder shall be in writing and addressed as follows or to such other address as a party may designate in writing to the other:

If to Tester: to the address stated in the preamble to this Agreement.

If to Garmin:

Garmin Canada, Inc.
124-30 Bow Street Common
Cochrane, Alberta, Canada, T4C 0 S4
Attn: Product Performance

18. Headings

The headings in this Agreement are provided for convenience only and shall not affect the construction or interpretation of this Agreement.

19. No Obligation

Nothing in this Agreement shall be construed to create any obligation on Garmin to disclose any information or to enter into any business relationship with Tester or to grant any rights, by license or otherwise, in any

Confidential Information except as specified in this Agreement. This Agreement does not create a joint venture, partnership or teaming agreement between the parties.

20. License

All Confidential Information remains the property of Garmin and no license or other rights under any copyright, patent, trademark, mask work right, trade secret or other intellectual property right owned by or licensed to Garmin is granted or implied hereby. The parties acknowledge and agree that no joint or derivative development of proprietary information, technology, or other intellectual property is contemplated for the relationship covered by this Agreement. Tester may, in his/her sole discretion provide feedback regarding Garmin's products or services, including but not limited to suggestions for improvements, modifications and enhancements ("Feedback"). With respect to such Feedback, Tester hereby grants Garmin a worldwide, exclusive, perpetual, irrevocable, royalty free right (i) to use, copy and modify Feedback and create derivative works thereof, (ii) and to make (or have made), use, import, sell, offer for sale, lease or otherwise distribute any products or services containing Feedback or implementing Feedback.

21. No Warranty

All Confidential Information is provided AS IS and without any warranty, express or implied, as to its accuracy or completeness, fitness for a particular purpose, merchantability, or non-infringement.

22. Counterparts

This Agreement may be signed in duplicate originals, or in separate counterparts, which are effective as if the parties signed a single original. A facsimile or scan of any original signature transmitted by one party to the other party is effective as if the original was sent to the other party. The Parties agree to accept a digital image of this Agreement, as executed, as a true and correct original and admissible as best evidence to the extent permitted by a court with proper jurisdiction.

IN WITNESS WHEREOF, the parties hereto have executed this agreement, by their duly authorized representatives, as of the day and year first above written.

Garmin Canada, Inc.

Signature: _____

Printed Name: _____

Title: _____

Tester

Signature: _____

Printed Name: _____

Title: _____