

THIRD AMENDMENT TO THE FORBEARANCE AGREEMENT

This Third Amendment to the Forbearance Agreement (this “**Agreement**”) is entered into as of December 15, 2008 amongst Komunik Corporation (the “**Borrower**”) and HSBC Bank Canada (the “**Bank**”).

RECITALS

WHEREAS the Borrower is a corporation resulting from the statutory arrangement under the provisions of section 192 of the *Canada Business Corporations Act* which effected the acquisition by Komunik Corporation (the “**Predecessor**”) of all of the issued and outstanding common shares of Datamark Systems Group Inc. (“**Group**”) and the amalgamation (the “**Amalgamation**”) of the Predecessor and Group.

WHEREAS the Bank and the Predecessor entered into a facility letter dated February 1, 2007 as amended by letters dated March 22, 2007 and May 1, 2007 (collectively, the “**Facility Letter**”) with respect to certain credit facilities.

WHEREAS by guarantees granted on June 12, 2007 by each of Komunik Datamark Inc. (formerly Datamark Systems Inc./Datamark Systèmes Inc. and hereinafter referred to as “**DSI**”) and Komunik Intermedia Inc. (formerly Les Impressions Intra-Media Inc. and hereinafter referred to as “**Intra-Media**”), DSI and Intra-Media agreed to guarantee the payment of all obligations of the Predecessor to the Bank (collectively, the “**Guarantees**”).

WHEREAS the obligations of DSI and Intra-Media in favour of the Bank, including without limitation the obligations of the Predecessor to the Bank payable by each of DSI and Intra-Media under the Guarantees, were secured by the security and hypothecs described in Schedule A hereto (collectively, the “**Schedule A Security**”).

WHEREAS the Bank has expressed to the Borrower its dissatisfaction in relation to the Borrower’s account and the operating losses being incurred and failure of the Borrower to comply with several of its financial covenants under the Facility Letter.

WHEREAS the Borrower has incurred losses of approximately \$6.2 million as at April 30, 2008 and \$2.6 million for the five (5) month period ended September 30, 2008.

WHEREAS the Borrower is insolvent and cannot meet its obligations as they generally become due.

WHEREAS such defaults and operating losses of the Borrower (“**Existing Defaults**”) are continuing and have not been cured.

WHEREAS the Bank has advised the Borrower that it wishes to discontinue financing the Borrower and the Borrower has confirmed its intentions to seek re-financing.

WHEREAS, the Bank has now engaged the services of PricewaterhouseCoopers LLP (“**PWC**” or the “**Consultant**”) to review elements of the Borrower’s business without any intervention thereto or partaking in any managerial decisions of the Borrower.

WHEREAS the Borrower has now engaged the services of RSM Richter Inc. (“**Richter**”) to advise it in the restructuring.

WHEREAS the Bank has issued a notice pursuant to Section 244 of the *Bankruptcy and Insolvency Act* and the Borrower has waived any delay in relation to such notice.

WHEREAS the Borrower has sought an order (the “**Initial Order**”) pursuant to the *Companies Creditors Arrangement Act* (“**CCAA**”).

WHEREAS the Initial Order was rendered on November 18, 2008 and Richter was appointed as Monitor.

WHEREAS, with a view to permit the Borrower to evaluate its alternatives and continue the sale process already undertaken, the Bank is willing to forbear from enforcing its rights that arise because of the Existing Defaults for a limited period of time, provided that the Borrower complies with the terms of this Agreement.

WHEREAS the parties have entered into a Forbearance Agreement dated July 30, 2008 (the “**Original Agreement**”).

WHEREAS the parties have entered into a First Amendment to the Forbearance Agreement dated October 15, 2008 (the “**First Amendment**”).

WHEREAS the parties have entered into a Second Amendment and Restated Forbearance Agreement dated November 17, 2008 (the “**Second Amendment**”).

WHEREAS the parties wish to further amend the Second Amendment, (the Original Agreement, the First Amendment, the Second Amendment and this Agreement are together referred to as the “**Forbearance Agreement**”) in the manner set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1 **INTERPRETATION**

- 1.1 The introductory paragraph and recitals hereof and all schedules attached hereto form an integral part of this Agreement.
- 1.2 All capitalized terms used herein (including in the introductory paragraph and recitals set forth above) and not otherwise defined herein shall have the meanings assigned to such terms in the Facility Letter and in the Original Agreement.

SECTION 2
CONFIRMATION OF OBLIGATIONS

- 2.1 The Borrower acknowledges and agrees that as of the date hereof:
- (a) the Borrower is without right of compensation, offset, defence, or counterclaim with respect to any of the Obligations;
 - (b) it is in default by virtue of the Existing Defaults;
 - (c) the amount of outstanding loans and advances as at December 12, 2008 due to the Bank are as follows:

PRINCIPAL:	\$16,581,535.75
INTEREST:	<u>\$62,755.00</u>
TOTAL:	<u>\$16,644,290.75</u>

The aforesaid sums are subject to adjustment for items in circulation, fees, costs and accessories.

SECTION 3
ACNOWLEDGEMENTS AND AMENDMENTS

- 3.1 The reference to "5:00 p.m. Montreal time on December 19, 2008" in item (a) of the definition of "Termination Date", set forth in Section 1 of the Second Amendment is hereby extended to 5:00 p.m. Montreal time on January 30, 2009;
- 3.2 Except as specifically provided herein, all other terms and conditions of the Forbearance Agreement shall remain in full force and effect;

SECTION 4
REPRESENTATIONS AND WARRANTIES

In consideration of the limited agreement of the Bank to forbear from the exercise of its rights and remedies as set forth above, the Borrower hereby represents and warrants to the Bank, as at the date hereof as follows:

- 4.1 The Borrower has made full disclosure to the Bank of all existing defaults and all other disclosures as is required under the Facility Letter, the Security Documents and the Original Agreement;
- 4.2 The execution, delivery and performance of this Agreement by the Borrower is within such person's power and have been duly authorized by all necessary action.

- 4.3 This Agreement constitutes a valid and legally binding agreement enforceable against the Borrower, in accordance with its terms subject to the effects of bankruptcy, insolvency and other laws affecting creditors' rights generally.
- 4.4 The Facility Letter, the Security Documents and the Forbearance Agreement constitute valid and legally binding obligations of the Borrower enforceable in accordance with the terms thereof subject to the effects of bankruptcy, insolvency and other laws affecting creditors' rights generally.

SECTION 5

COVENANTS OF THE BORROWER

In order to induce the Bank to forbear from the exercise of its rights and remedies as set forth above, the Borrower hereby covenants and agrees with the Bank as follows:

- 5.1 Except as for Existing Defaults, the Borrower shall continue to perform and observe all terms and conditions contained in the Facility Letter, the Security Documents and the Forbearance Agreement and particularly but without restriction to the generality of that which precedes there shall be no default of the margin requirements contained in the Facility Letter.
- 5.2 The Borrower shall deliver to the Bank in a timely fashion each of the following items in form and substance acceptable to the Bank:
- (a) upon the Bank's request, forecasts, reports and financial information, as may be specified by the Bank from time to time;
 - (b) by no later than the end of business day on Friday of each week, the updated Weekly Cash Flow Projections for a thirteen (13) week period, beginning on the previous Monday;
- 5.3 The Borrower and Richter shall fully collaborate with PWC for the Monitoring and PWC shall have unrestricted access to the information required, the personnel of the Borrower and of Richter and to the reports prepared or being prepared by Richter. The Borrower and Richter will co-operate with PWC and allow PWC to continue ongoing monitoring of borrowing base and the Borrower's financial progress measured against the first Weekly Cash Flow Projection with periodic reports to the Bank as requested by the Bank.
- 5.4 On each Thursday (based on the close of business of the preceding Friday) an aged list of the Borrower's accounts receivable (including the name and address of each debtor and the amount owing by such debtor) and estimate of the inventory and the margining base calculation.
- 5.5 The Borrower shall provide the Bank and PWC with the monthly internal financial statement by no later than December 30th, 2008 and January 26th, 2009.
- 5.6 The Borrower shall reimburse the Bank for all costs and expenses incurred by the Bank in connection with the negotiation, preparation and enforcement of this Agreement, in

connection with the management of the Borrower's account (including, without limitation, the Bank's fees and expenses, the Bank's attorneys' and Consultant's reasonable fees and expenses), as well as the enforcement and protection of its rights pursuant to the Facility Letter, the Security Documents, the Forbearance Agreement or otherwise and the Bank is hereby authorized to debit the Borrower's account to pay all said fees and expenses.

- 5.7 The Borrower shall pay to the Bank a non-refundable forbearance fee equal to \$25,000 (such fee, the "**Forbearance Fee**"). The Forbearance Fee shall be deemed to be fully earned on the date hereof and is due and payable immediately, and the Bank is hereby authorized to debit the Borrower's account to pay said Forbearance Fees.
- 5.8 In addition, the Borrower shall pay to the Bank, upon closing of a transaction, a non-refundable success fee equal to \$100,000 (the "**Success Fee**"). Such Success Fee should be paid after the full repayment of any and all indebtedness of the Borrower to HSBC Capital (Canada) Inc. ("**Capital**") but before any fee payable to Capital.
- 5.9 The Borrower undertakes to operate its business in a manner that will allow it to cure the Defaults (including any Existing Default). However, such tolerance by the Bank is subject to the condition that the charges created by the Security Documents do legally and factually charge all the assets described therein in order to guarantee the repayment of all Obligations of the Borrower to the Bank.
- 5.10 The Borrower unconditionally undertakes not to have any Margin Deficit, at any time. In addition, the Borrower undertakes to meet the margin projections shown in the cash-flow attached.
- 5.11 Should there be a Margin Deficit, in addition to being a Forbearance Default, the Bank may refuse to honour any cheque drawn on the accounts or any payment request of any nature whatsoever.
- 5.12 The Borrower will continue the already undertaken sale process, whereby all assets have been offered for sale. Said process shall continue to be supervised by Richter, as Court-appointed Monitor. The final date for submitting an offer must be set at no later than January 15, 2009. Again, the process and documentation have to be agreed upon by the Bank.
- 5.13 After having reviewed all offers received by January 15, 2009, if by January 22, 2009, none of them provide for a purchase price sufficient to repay in full the Obligations of the Borrower to the Bank or that no offer is otherwise satisfactory to the Bank, then the Forbearance Agreement shall immediately terminate without any further notice or delay.
- 5.14 The Borrower shall have determined, by no later than January 22, 2009, the offer it is prepared to accept, subject to the Bank's consent.
- 5.15 The Borrower acknowledges that no offer can be accepted and no transaction can be completed without the prior written consent of the Bank.

- 5.16 In addition, Richter, as Court-appointed Monitor pursuant to the Initial Order, shall monitor and review the receipts and disbursements of the Borrower, on a daily basis and shall report to the Bank and PWC.
- 5.17 The Borrower shall complete the retaining of the chosen Chief Restructuring officer (“CRO”), by no later than December 18, 2008. The documentation has to be acceptable to the Bank prior to its execution.
- 5.18 The Borrower may, with the prior written consent of the Bank, which consent could be withheld for any reason whatsoever and without any obligation of the Bank to justify its decision, establish a key employee retention program (“KERP”).
- 5.19 Subject to the Administration Charge and the Director’s Charge, the Bank shall continue to be an unaffected and an excluded creditor for all intent and purposes.
- 5.20 The Borrower reaffirms that the Bank will be at liberty to discuss this account and exchange information regarding the Borrower with HSBC Capital (Canada) Inc.

SECTION 6 **COURT APPROVALS**

It is understood and agreed that this Agreement is strictly subject to and conditional on the occurrence of all of the following, by no later than December 15, 2008:

- (a) the issuance of an Order by the Superior Court of Quebec, Commercial Division, District of Montreal, pursuant to the *Companies Creditors’ Arrangement Act*, in the form of the draft order attached hereto as Schedule “A”;
- (b) the approval of this Agreement by the Superior Court of Quebec, Commercial Division, District of Montreal;

The Bank expressly reserves its rights to seek any Court Order it may deem required or appropriate during the Initial Order. In the event that any one or all of the foregoing do not occur then the Bank at its option, may cancel this Agreement upon simple written notice to such effect to be given to the Borrowers.

SECTION 7 **CONFIRMATION OF GUARANTEES**

Each of DSI and Intra-Media hereby acknowledges and confirms: (i) that, notwithstanding the Amalgamation, the Guarantees and the Schedule A Security remain in full force and effect in all respects and are in all respects confirmed; (ii) that the Guarantees guarantee all of the obligations of the Borrower to the Bank; (iii) that the Schedule A Security continues to secure the obligations of DSI and of Intra-Media, including without limitation the obligations of the Borrower to the Bank payable by each of DSI and Intra-Media under the Guarantees; and that (iv) that it will do execute any other document and take any further action as may be necessary or advisable in order to give effect to the foregoing confirmations.

SECTION 8
MISCELLANEOUS

- 8.1 Headings. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.
- 8.2 Governing Law and Language. This Agreement shall be governed by, and shall be construed and enforced in accordance with, the laws of the Province of Quebec and the federal laws of Canada applicable therein. The parties hereto have expressly required that this Agreement be drafted in the English language. *Les parties aux présentes ont expressément exigé que la présente convention soit rédigée en anglais.*
- 8.3 Counterparts. This Agreement may be executed in any number of counterparts, and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.
- 8.4 Continued Effectiveness. Except as expressly set forth in this Agreement, the terms of the Facility Letter, the Security Documents and the Original Agreement remain unchanged, and all such documents shall remain in full force and effect and are hereby confirmed and ratified.
- 8.5 No Novation. This Agreement shall not be deemed or construed to be a satisfaction, reinstatement, novation or release of the Facility Letter or of any of the Security Documents or, except as expressly provided herein, a waiver by the Bank of any of its rights and remedies under the Facility Letter or the Security Documents, or at law or in equity.
- 8.6 Article 1594 C.C.Q. The Borrower shall be “*en demeure*” by the mere lapse of time for performing its obligations hereunder, as contemplated in Article 1594 of the *Civil Code of Quebec*.
- 8.7 Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions, whether oral or written, of the parties hereto pertaining to the subject matter hereof.
- 8.8 Amendments. This Agreement may not be modified or amended except by written agreement of the parties hereto.
- 8.9 Execution. In the event that a copy of this Agreement duly signed by the Borrower is not delivered to the Bank, prior to 8:30 p.m. Montreal time on December 15, 2008, this Agreement shall be deemed to be null and void, and the Bank shall not be bound by this Agreement.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the date first set forth above.

KOMUNIK CORPORATION

HSBC BANK CANADA

per: _____
Name:
Duly authorized pursuant to a
resolution of the Board of Directors
dated

per: _____
Name:
Duly authorized

Schedule A

1. a movable hypothec without delivery dated June 8, 2007 in the principal amount of CDN\$35,000,000 granted by DSI in favour of the Bank and registered at the Register of Personal and Movable Real Rights (the "RPMRR") under number 07-0327581-0003;
2. the general security agreement dated June 12, 2007 granted by DSI in favour of the Bank;
and
3. a movable hypothec without delivery dated June 8, 2007 in the principal amount of CDN\$35,000,000 granted by Intra-Media in favour of the Bank and registered at the RPMRR under number 07-0327581-0004.