

CANADA
PROVINCE OF QUÉBEC

DISTRICT OF MONTRÉAL
No.: 500-11-034815-080

SUPERIOR COURT
(Commercial Division)
The Companies' Creditors Arrangement Act

IN THE MATTER OF THE PLAN OF
ARRANGEMENT AND COMPROMISE
OF:

KOMUNIK CORPORATION

-and-

KOMUNIK DATAMARK INC.

-and-

KOMUNIK INTRAMEDIA INC.

Petitioners

-and-

RSM RICHTER INC.

Monitor

PETITION FOR THE EXTENSION OF THE STAY PERIOD, THE APPROVAL OF
THE APPOINTMENT OF A CHIEF RESTRUCTURING OFFICER, THE APPROVAL
OF A KEY EMPLOYEES RETENTION PLAN AND OTHER CONCLUSIONS
(Section 11 of the *Companies' Creditors Arrangement Act* R.S.C.
(1985), c. C-36, as amended ("CCAA"))

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING
IN THE COMMERCIAL CHAMBER AND FOR THE JUDICIAL DISTRICT OF
MONTRÉAL, THE PETITIONERS RESPECTFULLY SUBMIT THE FOLLOWING:

I. INTRODUCTION

1. On November 18, 2008, the Honorable Justice William Fraiberg, J.S.C issued an Order (the "Initial Order") granting Komunik Corporation ("Komunik"), Komunik Datamark Inc. ("Datamark") and Komunik Intramedia Inc. ("Intramedia") (collectively, the "Company"), protection under the CCAA until December 18, 2008;

2. The Company hereby respectfully seeks from this Court an Order for, *inter alia*:
 - (i) the renewal of the Initial Order;
 - (ii) the extension of the Stay Period and the Stay Termination Date (as defined in the Initial Order), to January 30, 2009;
 - (iii) the approval of the appointment of a CRO (as defined in the Initial Order);
 - (iv) the approval of a key employees retention plan ("KERP");
 - (v) the approval of additional forbearance agreements entered into by Komunik and its lenders;
3. Petitioners refer the Court to the *First Report of RSM Richter Inc.* (the "**Monitor's First Report**") filed in support hereof as **Exhibit R-1**, which provides a detailed update regarding the Company's recent financial performance, its restructuring measures and efforts, the Sale Process (as defined in the Initial Order) and the Company's activities;

II. THE COMPANY'S OPERATIONS AND ACTIVITIES

4. The Company has operated with minimal disruption since the date of the Initial Order;
5. While continuing to operate in the normal course, the Company has, with the assistance of the Monitor:
 - (i) convened meetings with its employees at all of its locations;
 - (ii) convened meetings and conference calls with major customers;
 - (iii) negotiated with suppliers and service providers regarding the terms on which goods and services are to be provided to the Company and paid for by the Company during the CCAA proceedings;
 - (iv) corresponded with and reported to HSBC Capital (Canada) Inc. ("**HSBC Capital**"), HSBC Bank Canada ("**HSBC Bank**") and its consultant, PricewaterhouseCoopers LLP;
 - (v) corresponded with the employees' union to provide it with information related to the CCAA proceedings;
 - (vi) addressed various issues and inquiries made by creditors of the Company; and

- (vii) worked with the Monitor to advance the Sale Process;

III. THE COMPANY'S RESTRUCTURING EFFORTS

- 6. The principal purpose of the Company's restructuring efforts is to discontinue those parts of the business which are unprofitable and to focus the business in Québec and Calgary, Alberta;
- 7. Consolidating the Company's operations will reduce overhead costs, eliminate surplus labour and simplify accounting systems;
- 8. In furtherance of these restructuring objectives, the Company has taken the following measures since the commencement of the CCAA proceedings :
 - (i) announcing the discontinuation of its Mississauga operations by December 31, 2008;
 - (ii) announcing the discontinuation of its Winnipeg operations by the end of January 2009;
 - (iii) reducing head count, including non-core sales personnel;
 - (iv) terminating its lease in Markham, Ontario; and
 - (v) taking initial steps to sell redundant assets in Mississauga and Winnipeg.

IV. THE COMPANY'S SALE PROCESS

- 9. A Sale Process was approved by the Court pursuant to the Initial Order;
- 10. Since the date of the Initial Order, the Monitor and the Company have worked together to perform the following activities related to the Sale Process:
 - (i) preparing an interest solicitation letter and confidentiality agreement ("CA") and working with the Company and its legal counsel in this regard;
 - (ii) preparing a confidential information memorandum ("CIM") providing detailed information concerning the Company;
 - (iii) sending the interest solicitation letter and the CA to 180 "targets", including targets identified by the Company and those identified by the corporate finance group of RSM Richter Inc.;
 - (iv) negotiating the terms of CAs with interested parties;

- (v) sending the CIM to those parties which have executed the CA;
 - (vi) assembling information for an electronic data room, containing financial, product and other relevant Company information; and
 - (vii) communicating extensively with prospective purchasers and investors regarding this opportunity.
11. Paragraph 19(b) of the Initial Order required that the Monitor place an advertisement seeking expressions of interest in the sale of the Company's assets and/or the Company's businesses in *La Presse* and the national edition of *The Globe and Mail* on or before November 25, 2008;
 12. However, the Company's management determined that publishing the advertisement could adversely impact its business and decided, after having consulted HSBC Bank and HSBC Capital, not to publish any advertisement;
 13. Both the Company and the Monitor are satisfied that the market will be extensively canvassed based on the Monitor's market research, the Company's knowledge of interested parties and word-of-mouth in the industry concerning the CCAA proceedings;
 14. Accordingly, the Company is asking this Court to relieve the Monitor from the obligation to publish an advertisement;

V. CHIEF RESTRUCTURING OFFICER

15. The Initial Order ordered the Company to seek the appointment of a CRO;
16. The Company has appointed Mr. Claude Perrotte as CRO, with the approval of HSBC Bank, HSBC Capital and the Monitor;
17. Mr. Claude Perrotte is the Company's Vice-President, Executive Sales. He has been with the business since the early 1980s and helped grow the Company's business from approximately \$1 million to over \$100 million. He has been active in the Company's industry for over 30 years;
18. Mr. Perrotte has strong relationships throughout the Company and, importantly, with the Company's major customers;
19. The Company therefore also seeks from this Court an order approving the appointment of Mr. Claude Perrotte as CRO;

VI. KEY EMPLOYEES RETENTION PROGRAM

20. Paragraph 22(b) of the Initial Order permits the Company to "establish a plan for the retention of key employees and the making of retention

payments or bonuses in connection herewith”;

21. The Company has identified six (6) persons, including the CRO, which it believes are essential to the successful implementation of its restructuring activities in these CCAA proceedings;
22. Each of these individuals is critical to the performance of the business and is working diligently to assist the Company in its restructuring efforts;
23. The Company proposes that these key employees be entitled to participate in a KERP, the terms of which are provided in documents filed as **Exhibit R-2**;
24. As appears from the Monitor’s First Report (Exhibit R-1), the Monitor has assisted in the development of the KERP and supports its implementation;
25. HSBC Bank and HSBC Capital have also advised the Company that they consent to the terms the KERP;
26. Given the support of these stakeholders, and the Company’s view that the terms of the KERP will increase the likelihood of a positive outcome in the CCAA proceedings, the Company respectfully requests this Court’s approval of the KERP;
27. The Company also prays this Court to order that the KERP be permanently kept sealed and confidential and be only available to the Company, its Board members, the Monitor, HSBC Bank, HSBC Capital, and their respective counsel, for the following reasons:
 - (i) disclosure of the information set forth in the KERP would cause significant harm to the employees sought to be compensated herein, by disclosing personal, confidential and proprietary information regarding these employees and their compensation; and
 - (ii) such disclosure could provide competitors with the necessary information to attempt to secure these critical employees;

VII. THE COMPANY’S CUSTOMERS

28. In the normal course, the Company’s warehouses have printed inventory for a large percentage of its customers;
29. The customers have not paid for this inventory although it has been produced specifically for them according to their specifications and design;
30. The Company also produces and maintains artwork for its customers;

31. As with any restructuring proceeding, there is a risk that the Company's restructuring efforts will not be successful;
32. Accordingly, certain customers have requested confirmation that in the event that the Company is not sold and/or restructured, that they be entitled to take immediate possession of such inventory and artwork;
33. The Company has advised the Monitor that its customers' requests are acceptable to it, provided that prior to the release of this inventory and artwork to the customers, they pay in full any amounts owing to the Company or coming due to the Company, without setoff or deduction of any kind, except for certain agreed setoffs, such as short shipments, defects, billing errors, or the like;
34. Damage claims would not be recognized by the Company;
35. The Company believes that this delivery of such inventory and artwork to customers is appropriate in the circumstances;
36. The Company thereof respectfully requests that this Court order that such terms be binding on a trustee in bankruptcy and other parties;

VIII. THE FORBEARANCE AGREEMENTS

37. On November 18, 2008, this Court approved the HSBC Bank Forbearance Agreement (as defined in the Initial Order) and the HSBC Capital Forbearance Agreement (as defined in the Initial Order);
38. These two (2) forbearance agreements will expire on December 19, 2008;
39. HSBC Bank and HSBC Capital have given their conditional support to the filing of the present Petition and the Company' restructuring process;
40. As such, Komunik and :
 - (a) HSBC Bank agreed on the terms of a second forbearance agreement to be executed on December 15, 2008, a copy of which is filed in support hereto as **Exhibit R-3** (the "**HSBC Bank Second Forbearance Agreement**"), provided that the HSBC Bank Second Forbearance Agreement is approved by this Court and that no default occurs thereunder; and
 - (b) HSBC Capital agreed on the terms of a second forbearance agreement to be executed on December 15, 2008, a copy of which is filed in support hereto as **Exhibit R-4** (the "**HSBC Capital Second Forbearance Agreement**"), provided that the HSBC Capital Second Forbearance Agreement is approved by this Court and that no default occurs thereunder;

IX. COMPANY'S REQUEST OF AN EXTENSION

41. The current stay of proceedings expires on December 18, 2008;
42. The Company hereby seeks an extension of the stay of proceedings and renewal of the Initial Order to January 30, 2009.
43. The Company's cash flow projection for the extension period is filed in support hereof as **Exhibit R-5**;
44. The cash flow projection reflects that the Company will be in compliance with the terms of both the HSBC Bank Second Forbearance Agreement and the HSBC Capital Second Forbearance Agreement through to January 30, 2009.
45. Given that, as described in the present petition, the circumstances are such that an order should be rendered, and given that the Company has acted and is acting in good faith and with due diligence, the Company respectfully submits that the petition should be granted as per its conclusions;

WHEREFORE, MAY IT PLEASE THIS COURT TO:

GRANT the present *Petition for the extension of the Stay Period, the approval of the appointment of a chief restructuring officer, the approval of a key employees retention plan and other conclusions* (the "**Petition**");

EXEMPT Komunik Corporation, Komunik Datamark Inc. and Komunik Intramedia Inc. (collectively, the "**Company**") from having to serve the Petition and from any notice of presentation;

EXTEND the Stay Period and the Stay Termination Date (as defined in the Order rendered on November 18, 2008 by the Honorable William Fraiberg, S.C.J., (the "**Initial Order**")), up to and including January 30, 2009;

RENEW, in full but with the necessary adaptations, if needs be, the Initial Order, until January 30, 2009;

APPROVE the appointment of Mr. Claude Perrotte as Chief Restructuring Officer of the Company;

APPROVE the key employees retention plan (the "**KERP**") (Exhibit R-2 to the Petition, under seal);

ORDER that the KERP be kept confidential and under seal in the office of counsel for the Company until, as the case may be, further order of this Court;

APPROVE and ORDER the implementation of the terms and conditions of the HSBC Bank Second Forbearance Agreement (Exhibit R-3 to the Petition);

APPROVE and ORDER the implementation of the terms and conditions of the HSBC Capital Second Forbearance Agreement (Exhibit R-4 to the Petition);

DECLARE that in the event that the Stay Termination Date and the Stay Period (as defined in the Initial Order) expire and are not extended by this Court, the Company's customers will be entitled to take possession of inventory and/or artwork produced at their request, and held by, or for, the Company, provided that (i) they notify the Company, HSBC Bank Canada ("HSBC Bank") and HSBC Capital (Canada) Inc. ("HSBC Capital"), within 30 days of the Stay Termination Date, of their intention to buy such inventory and/or artwork (ii) they take possession of such inventory and/or artwork within 15 days from the notice referred to in (i) and (iii) prior to the release of such inventory and/or artwork, they pay in full by certified funds any amounts owing to the Company or coming due to the Company without, unless agreed otherwise, any right of set-off, being understood that such inventory and/or art work is subject to the security granted in favour of the HSBC Bank and HSBC Capital and validly charged by such security;

DECLARE that the releases of inventory and/or artwork:

- (a) do not and will not constitute settlements, fraudulent preferences, fraudulent conveyances or other challengeable or reviewable transactions under any applicable law; and
- (b) are and will be binding on any trustee in bankruptcy, receiver, receiver and manager or interim receiver of Petitioners, for all purposes.

DECLARE that the proceeds of each sale of inventory and/or artwork have to be remitted within 15 days of the receipt to the HSBC Bank and HSBC Capital.

RELIEVE the Monitor from the obligation to publish an advertisement as set forth at paragraph 19(b) of the Initial Order;

APPROVE the Monitor's activities, as described in the Monitor's First Report (Exhibit R-1 to the Petition);

ORDER the provisional execution of the order to be rendered herein notwithstanding any appeal;

THE WHOLE, without costs, save in case of contestation.

Montreal, this 14th day of December 2008

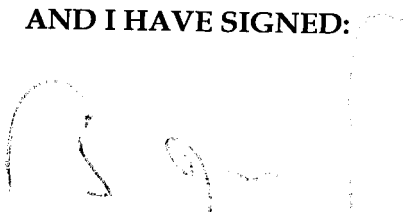

STIKEMAN ELLIOTT LLP
Attorneys for Petitioners

AFFIDAVIT

I, the undersigned, **SÉBASTIEN P. DEMERS**, am the President and CEO of Komunik Corporation, doing business at 1500 St. Patrick Street, in the city and district of Montréal, Province of Québec, H3K 0A3, do solemnly declare as follows:

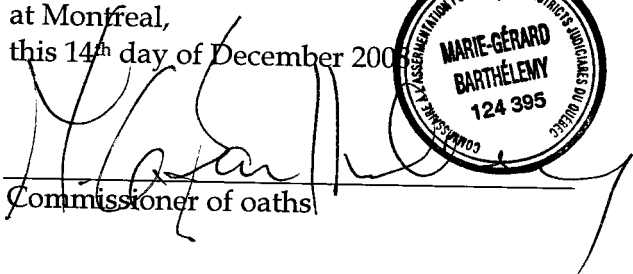
1. I am duly authorized by Komunik Corporation, Komunik Datamark Inc. and Komunik IntraMedia Inc. to sign the present affidavit;
2. All the facts contained in the *Petition for the extension of the stay period, the approval of the appointment of a chief restructuring officer, the approval of a key employees retention plan and other conclusions* dated December 14, 2008, are true.

AND I HAVE SIGNED:



SÉBASTIEN P. DEMERS

SOLEMNLY DECLARED before
at Montreal,
this 14th day of December 2008



Commissioner of oaths



NOTICE OF PRESENTATION

TO: Mr. Robert Kofman Fax: (514) 875-6246
Mr. Shawn Travitsky Fax: (514) 934-3504
RSM RICHTER INC.
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Me Tony Reyes Fax: (416) 340-6093
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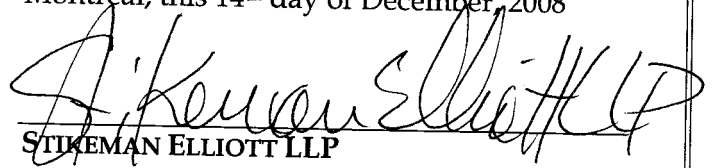
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TAKE NOTICE that the foregoing *Motion for the extension of the stay period the approval of the appointment of a chief restructuring officer, the approval of a key employees retention plan and other conclusions* shall be presented before one of the Honorable Judges of the Superior Court for the District of Montreal, on **December 15th, 2008 at 9:15 a.m., room 14.09**, in the Montreal Courthouse, located at 1 Notre-Dame Street East, in the City of Montreal, Province of Quebec, or so soon thereafter as counsel may be heard.

DO GOVERN YOURSELVES ACCORDINGLY.

Montreal, this 14th day of December, 2008



STIKEMAN ELLIOTT LLP

Attorneys for Petitioners

CANADA
PROVINCE OF QUÉBEC

DISTRICT OF MONTRÉAL
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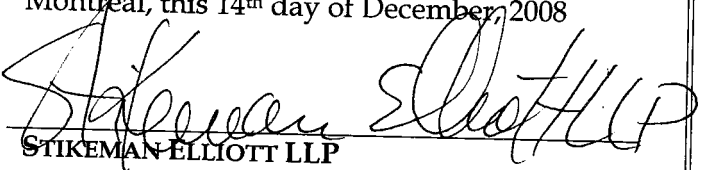
RSM RICHTER INC.

Monitor

LIST OF EXHIBITS

- EXHIBIT R-1: The Monitor's First Report;
- EXHIBIT R-2 Key Employees Retention Plan;
- EXHIBIT R-3 HSBC Bank Second Forbearance Agreement dated December 15, 2008;
- EXHIBIT R-4 HSBC Capital Second Forbearance Agreement dated December 15, 2008;
- EXHIBIT R-5 The Company's cash flow projection for the extension period.

Montreal, this 14th day of December, 2008


STIKEMAN ELLIOTT LLP
Attorneys for Petitioners