

# CONFIDENTIALITY AGREEMENT



This Confidentiality Agreement ("Agreement") is made and entered into by and between **Redline Communications Inc. ("RCI")**, a Canadian corporation, located at 302 Town Centre Blvd. 4<sup>th</sup> floor, Markham, Ontario, L3R 0E8 together with and on behalf of its various affiliated companies, and \_\_\_\_\_

\_\_\_\_\_  
("Company"), (insert name and address as well as Country of incorporation)

## Witnesseth:

**WHEREAS**, RCI and Company desire to explore and discuss the potential mutual benefits from joint business arrangements or activities which explorations and discussions are herein referred to as the "Discussions";

**AND WHEREAS**, in connection with the Discussions, RCI and Company will acquire certain confidential information relating to each other's businesses, including, without limitation, technical information such as internal photos, know-how, business methods and processes;

**AND WHEREAS**, RCI and Company desire to set forth their understanding with respect to such confidential information during and after the Discussions;

**NOW THEREFORE** for valuable consideration (the receipt and sufficiency of which is hereby acknowledged) RCI and Company agree as follows:

- 1. Confidential Information.** "Confidential Information" shall mean any business, marketing, sales, financial (including pricing) or technical information, including, without limitation, any information relating to present or future business affairs, operations, methods, techniques, operations, financial condition, reports, research, product plans, products, developments, processes, models, designs, drawings, formulae, markets, software (including source and object code), algorithms, business plans or agreements with third parties and all other information of any kind which may reasonably be deemed confidential or proprietary, disclosed by one party (the "Disclosing Party") to the other (the "Receiving Party"), whether such information is in written, oral, graphic or machine-readable form and which is designated or identified as "confidential", "proprietary" or in some other manner prior to the disclosure, to indicate its confidential nature. Oral disclosures will be confirmed in written format 30 days following the disclosure. Notwithstanding the foregoing, "Confidential Information" shall not include information which: (a) has been or becomes published or is now or is in the future in the public domain through no action of the Receiving Party; (b) prior to disclosure hereunder, is within the legitimate possession of the Receiving Party as evidenced by competent written proof; (c) subsequent to disclosure hereunder, is lawfully received from a third party having rights therein without restriction of the third party's rights to disseminate the information and without notice of any restriction against its further disclosure; or (d) is independently developed or acquired by the Receiving Party through persons who have not had, either directly or indirectly, access to or knowledge of such Confidential Information.
- 2. Nondisclosure.** The Confidential Information shall (a) be kept confidential by the Receiving Party and not disclosed to any third parties, (b) not be used by the Receiving Party in any way detrimental to the Disclosing Party, and (c) not be used other than in connection with the Discussions. The Receiving Party may disclose the Confidential Information to its and its affiliates' directors, officers, employees, consultants and agents (collectively, "Representatives") only if such Representatives need to know the Confidential Information in connection with the Discussions and are bound by confidentiality obligations similar to those contained herein. The Receiving Party shall (i) inform each of its Representatives receiving Confidential Information of the confidential nature of the Confidential Information and of this Agreement, (ii) direct its Representatives to treat the Confidential Information confidentially and not to use it other than in connection with the Discussions, and (iii) be responsible for any improper use of the Confidential Information by the Receiving Party or its Representatives. Without the prior written consent of the Disclosing Party, the Receiving Party will

not, and will direct its Representatives not to, disclose to any person that the Confidential Information has been made available to it or that the Discussions are taking place.

3. **Care and Return of Confidential Information.** The Receiving Party shall provide at least the same care to avoid disclosure or unauthorized use of the Confidential Information as it generally provides to protect its own proprietary information, which shall, in all events, equal or exceed a standard and level of care generally recognized as being reasonable for the protection of highly confidential information. All Confidential Information shall be retained by the Receiving Party in a place with access limited only to the Receiving Party's Representatives who reasonably need to know the Confidential Information in connection with the Discussions. Upon the request of the Disclosing Party, the Receiving Party shall destroy or return to the Disclosing Party, or in the case of electronic, magnetic or digital media, at the election of the Disclosing Party, erase or render unreadable, all materials furnished which contain Confidential Information of the Disclosing Party, including, without limitation, documents, drawings, models, prototypes, sketches, designs, lists, papers, magnetic media and other tangible media.
4. **No Licenses.** Neither the execution of this Agreement nor the furnishing of any information under this Agreement shall be construed as granting any party or any of its Representatives, either expressly or by implication, any license or right to use any Confidential Information for its own benefit or the benefit of any other person, firm or entity, and each party expressly agrees not to so use any such information. Nothing contained in this Agreement shall be construed as conferring any rights, by license or otherwise, to any invention, discovery, or improvement made, conceived or acquired prior to, during or after the date of this Agreement.
5. **Compliance with Laws.** Each party shall observe and comply with all present and future laws, ordinances, orders, rules, and regulations of all governmental or other agencies, departments, authorities, boards, or commission having jurisdiction over or related to the Discussions and the use of any information obtained as a result thereof.
6. **Remedies.** Each party acknowledges that the Disclosing Party would be irreparably harmed by a breach hereof by the Receiving Party or its Representatives and that it is difficult to estimate damages resulting from such a breach and, consequently, the non-breaching party shall be entitled to seek injunctive or other equitable relief to prevent a breach or continued breach of this Agreement, and to secure the enforcement of this Agreement, without foregoing any legal relief to which the non-breaching party may be entitled to recover.
7. **Term.** The term of this Agreement shall commence as of the date of execution of this Agreement by RCI and shall expire a) 12 months following execution of the Agreement; or b) 30 days following written notice of termination by one party to the other. However, the restrictions and obligations of this Agreement relative to the use or disclosure of Confidential Information shall survive the termination of this Agreement and the Discussions for a period of five (5) years.
8. **Disclosure Under Court Order or Subpoena.** Should applicable law or any rule or regulation of any governmental entity of competent jurisdiction require disclosure of Confidential Information of the Disclosing Party in the Receiving Party's possession, custody or control, the Receiving Party shall use commercially reasonable efforts to: (a) give at least ten (10) days prior written notice of such disclosure to the Disclosing Party; (b) limit such disclosure to the extent practicable; and (c) make such disclosure only to the extent so required.
9. **Miscellaneous.**
  - a. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of Ontario and federal laws applicable therein, without regard to the principles of conflict of laws.
  - b. **Entire Agreement.** This Agreement represents the entire Agreement between the parties with respect to the subject matter hereof, superseding all previous oral or written communications, representations or agreements. This Agreement may be modified only by a duly authorized and executed writing signed by both parties.
  - c. **Waiver.** Failure to enforce any provision of this Agreement by either party shall not constitute a waiver of any term.
  - d. **Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but which together shall constitute one (1) and the same Agreement.
  - e. **Enurement.** The terms and conditions of this Agreement shall enure to the benefit of and binding upon the respective

successors and permitted assigns of the parties, provided that Confidential Information may not be assigned without the prior written consent of the Disclosing Party.

- f. **Invalid Provisions.** If any provision of this Agreement shall be held illegal, invalid, or unenforceable under any present or future laws, such provision shall be fully severable and this Agreement shall, to the extent possible and without destroying the intent of this Agreement, be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof, and the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the dates noted below.

Redline Communications Inc.		Company (Insert company name)	
By:		By:	
Name (print):		Name (print):	
Title:		Title:	
Date:		Date:	
Phone:	+1.905.479.8344	Phone:	
Fax:	+1.905.479.5331	Fax:	
Email:		Email:	