



NON-DISCLOSURE / CONFIDENTIALITY AGREEMENT

This form was designed to be completed electronically. Use the tab key to move from field to field.

This Non-Disclosure Agreement is entered into as of the ____ day of ____ 20____ (“Effective Date”), between the Toronto Transit, having a place of business located 1900 Yonge Street, Toronto, Ontario, (hereinafter referred to “TTC”) and, _____ having a place of business at ____ (hereinafter referred to as “Company”).

WHEREAS the TTC is issuing a Request for Proposals for the Provision of Armoured Car Services For a Five Year Term, Request for Proposal No. P27CB10251 (“RFP”), and the Company is interested on receiving a copy of the RFP in order to determine whether to submit a bid based on the RFP (“Purpose”).

WHEREAS the Company requires certain Confidential Information from the TTC subject to the terms and conditions set forth below.

CLAUSE 1. DEFINITIONS

1.1 In this Agreement, “Confidential Information” means all information, including, but not limited to;

- Facility layout, office / room locations, and contents,
- Facility design and construction materials used,
- Physical facility security features, alarms and access control systems,
- Any diagrams or drawings related to the facility or any of its systems,
- Number of facility employees and staffing levels,
- Personal information about Revenue Operations employees,
- Information related to employee work schedules and driver routes,
- Revenue processing equipment and processing operations,
- Type and/or quantity of financial assets on-hand,
- Type and/or quantity of financial assets collected or processed daily,
- Time, frequency and amount of bank deposits,
- General revenue information and statistical data,
- Numbers and locations of surveillance cameras,
- Information about Revenue Operations fleet vehicles & security features,
- Information about ATA client accounts,
- Information about Revenue Operations equipment & prototypes,
- Any special security features of TTC fare media types,
- Operating policies and procedures pertaining to the day-to-day activities of the Revenue Operations Department,

whether disclosed in writing, orally, machine readable form, through personal observation(s), or third party word of mouth.

Note: Use or possession of cell phones, cameras, audio or video recording devices is prohibited inside the Patten Building, without the prior written permission of the TTC’s Revenue Operations Loss Prevention Section.

CLAUSE 2. USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION

2.1 The Company shall:

2.1.1 Use the Confidential Information solely for the Purpose as set out above;

2.1.2 Hold the Confidential Information in confidence and shall not sell, assign, transfer or otherwise disclose the Confidential Information, or any information or materials derived there from, to any third party without the prior consent of the TTC, save and except as otherwise provided herein;

2.1.3 Employ at least the same degree of care to protect the secrecy and confidentiality of the Confidential Information as it uses to protect its own confidential and proprietary information and materials, but in no event less than reasonable care; and

2.1.4 Restrict the release, access and use of the Confidential Information to those employees and officers who must have access to the Confidential Information in order to permit the Company, in good faith, to determine whether to submit a bid based on the RFP, save and except as otherwise provided herein;

2.1.5 Ensure that each person to whom Confidential Information is disclosed to in accordance with Clause 2.1.4 is advised, prior to the disclosure, of the confidential nature of the Confidential Information.

2.2 The Company shall not:

2.2.1 Remove any proprietary, copyright, trade secret or other proprietary rights legend from any form of Confidential Information; or

2.2.2 Make any public announcement of disclosure concerning the contents of this Agreement beyond the disclosures authorized hereunder without the prior written consent of the TTC.

2.3 Immediately upon written request by the TTC and subject to any statutory requirement, the Company shall return all copies of the Confidential Information in its possession to the requesting party or certify that all copies in its possession or control have been destroyed.

2.4 In the event of a breach of any of the foregoing provisions, TTC and the Company agree that the harm suffered by the TTC would not be compensable by monetary damages alone and accordingly, that the TTC shall, in addition to other available legal or equitable remedies, be entitled to an injunction against such



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breach.

CLAUSE 3. EXCEPTIONS

- 3.1 Notwithstanding anything to the contrary herein, the Company's confidentiality obligations shall not apply to Confidential Information that:
- 3.1.1 Is known to the Company at the time of disclosure;
 - 3.1.2 Is independently developed by the Company provided that party can show that such development was accomplished without the use of or any reference to the Confidential Information;
 - 3.1.3 Becomes known to the Company from another source without confidentiality restriction on subsequent disclosure or use, provided that such source is not in breach of its obligations of non-disclosure;
 - 3.1.4 Is or becomes a part of the public domain through no wrongful act of the Company; or
 - 3.1.5 Is subsequently publicly disclosed by the TTC.

CLAUSE 4. DISCLOSURE BY LAW

- 4.1 Should the Company be required by law or policy or be requested by legal process or regulatory authority to disclose any Confidential Information, the Company will provide the TTC with prompt written notice of such requirement or request so that the TTC may seek an appropriate protection order or pursue such other action, remedy or assurance necessary to preserve the confidentiality of the Confidential Information, or waive compliance with any of the provisions of this Agreement, or both; and the Company will fully co-operate with and not oppose the TTC in respect of such matters. If, in the absence of either a protective order or a waiver by the other party, the Company, in the reasonable opinion of reputable legal counsel, are required by law to disclose any Confidential Information or stand liable for contempt or to suffer other censure or penalty on any failure to so disclose, the Company may, without liability hereunder, disclose that portion, and only that portion, of the Confidential Information that is required to be disclosed.

CLAUSE 5. NO IMPLIED OBLIGATIONS

- 5.1 Unless a written agreement with respect to the Purpose is entered into by the Parties (and except for the matters specifically agreed to herein), neither party shall be under any legal obligation with respect to the Purpose or otherwise by virtue of this Agreement or any written or oral expression with respect to the Purpose by any of their respective directors, officers, employees or agents.

CLAUSE 6. GENERAL PROVISIONS

- 6.1.1 This Agreement may not be assigned by either party in whole or in part, without the other party's written consent.
- 6.1.2 If any provisions, or portion thereof, of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions of this Agreement, and each provision, or portion thereof, is hereby declared to be separate, severable and distinct.
- 6.1.3 A term or condition of this Agreement can be waived or modified only by written consent of both parties. No failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.
- 6.1.4 No single or partial exercise of any right or remedy under this Agreement shall preclude any other or further exercise of any other right or remedy in this Agreement or as provided at law or in equity. Rights and remedies provided in this Agreement are cumulative and not exclusive of any right or remedy provided at law or in equity.
- 6.1.5 This Agreement constitutes the complete and exclusive statement of the terms and conditions between them with respect to the subject matter hereof and supersedes all prior and contemporaneous oral or written statements which are inconsistent herewith.
- 6.1.6 Title to the information and any copies thereof shall remain in the disclosing party.
- 6.1.7 This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario, Canada.
- 6.1.8 This Agreement may only be modified by written agreement of both parties.
- 6.1.9 Both parties' obligations of confidentiality shall continue for a period of three (3) years following the last disclosure of Confidential Information.
- 6.1.10 This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed either in original or faxed form and the parties adopt any signatures received by a receiving fax machine as original signatures of



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the parties; provided, however, that any party providing its signature in such manner shall promptly forward to the other party an original of the signed copy of this Agreement which was so faxed.

Toronto Transit Commission	Company
<p>Date: _____</p> <p>By: _____ Authorized Signature</p> <p>_____ Name (print or type)</p> <p>Chief Revenue Operations Officer Revenue Operations Department</p> <p>I have the authority to bind the Commission</p>	<p>Date: _____</p> <p>By: _____ Authorized Signature</p> <p>_____ Name (print or type)</p> <p>_____ Title (print or type)</p> <p>I have the authority to bind the Company</p>