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Summary of SEC Rule 15a-6
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The principal exemption of potential use to a foreign broker-dealer to facilitate limited contacts with persons physically located in the United States is Rule 15a-6, adopted by the SEC in July 1989 (attached as **Exhibit A**) in recognition of the growing internalization of markets and the very broad scope of the registration provisions set forth in the Securities Exchange Act of 1934.

Rule 15a-6, as supplemented by SEC no-action letters, can be used, at the federal level, to permit

(a) Transactions with U.S. registered broker-dealers acting as a principal or as an agent for their customers;

(b) Unsolicited transactions. However, *solicitation* is a very broad concept that includes any effort to induce transactional business, including the sending of research reports and soft-dollar arrangements;

(c) Transactions with foreign persons temporarily present in the United States with whom the foreign firm had a bona fide, pre-existing relationship before the foreign person entered the United States. For this purpose, non-resident status is a fact-specific inquiry. However, based upon Footnote 211 in the Rule 15a-6 Adopting Release, a reasonable interpretation would be to regard a foreign national visiting the United States for fewer than 183 days in a calendar year as meeting this test. This determination should be backed up with appropriate written certifications from he customer.

In addition to the foregoing exemptions, Rule 15a-6 can be used to facilitate contacts by representatives of a Canadian firm with "*U.S. Institutional Investors*" and "*Major U.S. Institutional Investors*" (as defined in each case) if the account is maintained by a U.S. registered broker-dealer (which can either be affiliated or unaffiliated with the Foreign firm). Non-U.S. dealers, including foreign affiliates of U.S. dealers, should also limit their contacts to institutional investors and registered broker-dealers, thereby benefiting from state broker-dealer registration exemptions, as discussed below.

U.S. Institutional Investors are defined in material part as (i) registered investment companies, (ii) banks, (iii) savings and loan associations, (iv) insurance companies, (v) pension plans directed by defined fiduciaries, (vi) tax-exempt entities, and (vii) trusts with sophisticated fiduciaries with total assets in excess of $5 million.

Major U.S. Institutional Investors are entities, regardless of whether they fall in the foregoing categories, with assets or assets under management in excess of $100 million.

The functions required to be performed by the U.S. dealer in the case of *U.S. Institutional Investors* and *Major U.S. Institutional Investors* are as follows:

(a) Issue all required confirmations and account statements;

(b) Maintain required capital related to such transactions;

(c) Receive, deliver and safeguard funds and securities on behalf of the customer;

(d) Maintain required books and records related to the transaction;

(e) Be responsible for extending or arranging margin to or for the customer;

(f) Serve as agent for service of process for civil actions brought by the SEC or SROs (not limited to matters arising in connection with Rule 15a-6 transactions); and

Whether a customer is a *U.S. Institutional Investor* or *Major U.S. Institutional Investor* determines the scope of the foreign firm's permissible contacts.

In the case of *U.S. Institutional Investor*, the U.S. firm would generally have to participate in telephone contacts and personal visits in the United States by the non-U.S. firm's personnel.

In the case of *Major Institutional Investors*, the foreign firm's institutional brokers can have telephone contacts that are not "chaperoned" by the U.S. firm, and "unchaperoned" personal visits in the United States limited to 30 days per year, provided that no orders are accepted during these visits.

Rule 15a-6 chaperoning arrangements could potentially be used to facilitate U.S. private placements of foreign securities with the involvement of foreign securities firms. However, the chaperoning firms will be reluctant to assume potential liability for primary offerings in which they have had limited involvement.

Attached as **Exhibit B** is an example of a chaperoning agreement between a U.S. broker-dealer and foreign dealer.

As a result of an interpretation reiterated by the SEC in the *Rule 15A-6 Adopting Release,* a non-U.S. firm can distribute research reports to persons in the United States (whether or not institutional investors) if certain conditions are met. These conditions are that (a) a U.S. firm prominently states on the report that it accepts responsibility for its contents, (b) the report prominently indicates that persons receiving the report should effect transactions in securities discussed in the report through the U.S. firm, and (c) transactions in such securities by recipients of the report are actually effected only through the U.S. firm.

NASD Rule 2711 and corresponding NYSE rules relating to research analyst conflicts of interest do not apply to foreign broker-dealers distributing research to U.S. persons through NASD or NYSE member firms in accordance with Rule 15a-6 under the Exchange Act and related SEC interpretations. However, certain provisions of the new Rules with respect to research reports would apply to the NASD or NYSE member firms distributing such reports.

The SROs have acknowledged that the distribution of research reports prepared by non-member firms raises complex issues that will vary depending on the type of report, the entity that created the report, and the member's participation in the production or distribution of the report. The SROs intend to further examine the issue of member distribution of third party research, including research prepared by affiliated entities.

Generally, though, where a member firm is distributing research prepared by a non-member firm, such as an affiliated foreign dealer, the member firm is only required to disclose applicable conflicts of interest related to the member firm only. The new Rules do not require the member firm to include disclosures in such third party reports relating to their non-member affiliates or their affiliate's employees. However, the requirement on the member to disclose 1% beneficial ownership of common equity securities by the members or its affiliates will require the member firm to aggregate holdings by unregistered affiliates in such disclosure.

Many international firms, however, are giving consideration to applying the U.S. SRO rules, together with the requirements specified in the Global Settlement involving research conflicts of interest, which was reached on April 28, 2003, to all research distributed by these firms worldwide.

In cases where a member disseminates research prepared by a foreign broker-dealer and chooses not to fully comply with U.S. standards, a disclosure should be made in the report that the non-member affiliate and its employees are not subject to the disclosure requirements of the New Rules.

In general, non-registered broker-dealers providing research to United States persons under Rule 15a-6 must provide analyst certifications in distributed research reports in accordance with Regulation AC. However, a narrow exception was created for foreign persons located outside the United States and not associated with a registered broker-dealer that prepare and provide research on foreign securities to major U.S. institutions in accordance with the provisions of Rule 15a-6(a)(2). In these instances, the foreign person is excepted from the requirements of Regulation AC. In addition, where a research analyst is employed outside the United States by a foreign person located outside the United States, analyst certifications in connection with public appearances are only required while the research analyst is physically present in the United States.

Regulation AC would apply to all other instances in which a foreign non-registered broker-dealer furnishes research to United States persons pursuant to Rule 15a-6 or otherwise, including the provision of research to United States persons pursuant to the interpretive position affirmed in the Rule 15a-6 adopting release, as well as the provision of research to major U.S. institutional investors through an affiliated United States registered broker-dealer pursuant to Rule 15a-6(a)(2).

Another SEC position providing potential relief at he federal regulatory level to foreign dealers is an SEC no-action letter[1], that permits non-U.S. firms to treat U.S. investment advisers with discretionary authority for "*Offshore Clients*" as non-U.S. clients, even if the advisers are solicited in the United States, in respect to transactions in "*Foreign Securities*." *Offshore Clients* are limited to certain high net worth individuals and entities. *Foreign Securities* do not include those interlisted in the United States when the transaction is executed on a U.S. exchange or NASDAQ. The conditions applicable to this relief are discussed below and should be reflected in a certificate obtained from the U.S. investment adviser by the non-U.S. firm.

The investment adviser must be duly appointed as an investment adviser by each of the *Offshore Clients* (as defined below) for which it will transact business through the foreign firm. The investment adviser must have authorization to direct orders to buy and sell (or otherwise transact business in) securities in a discretionary manner for the accounts of all such *Offshore Clients*.

Any securities transactions submitted by the investment adviser to the foreign firm must be limited to *Foreign Securities* (as defined below) and in all such transactions, the investment adviser must allocate all investment activity transacted through the non-U.S. firm only to the accounts of *Offshore Clients* and not to any other clients.

Offshore Client means (1) any entity not organized or incorporated under the laws of the United States and not engaged in a trade or business in the United States for U.S. federal income tax purposes; (2) any natural person who is not a U.S. resident, or who is a U.S. citizen residing in a foreign country who (a)

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[1] Cleary, Gottlieb, Steen & Hamilton, SEC No-action Letter (Jan. 30, 1996) 1996 WL 38823.

has $500,000 or more under the management of he investment adviser or (b) has, together with his or her spouse, a net worth in excess of $1,000,000; or (3) any entity nor organized or incorporated under the laws of the United States substantially all (i.e., at least 85%) of the outstanding voting securities of which are beneficially owned by persons described in (1) and (2) above.

Foreign Security means (1) a security issued by an issuer not organized or incorporated under the laws of the United States when the transaction in such security is not effected on a U.S. exchange or through the NASDAQ system, including an American Depository Receipt issued by a U.S. bank that is initially offered and sold outside the United Stats in accordance with Regulation S under the Securities Act of 1933, as amended (the "*Securities Act")*; or (2) a debt security (including a convertible debt security) issued by an issuer organized or incorporated in the United States in connection with a distribution conducted outside the United States.

Securities issued in a distribution outside the United States include securities offered and sold in accordance with *Regulation S under the* Securities Act. Debt securities of an issuer organized or incorporated under the laws of the United States are not *Foreign Securities* if they were offered and sold as part of a "global offering" involving both a distribution of the securities in the United States under a U.S. *Securities Act* registration statement and a contemporaneous distribution outside the United States. For purposes of the definition of *Foreign Security*, the status of *over-the-counter* ("OTC") derivative instruments may be determined by reference to the underlying instrument. (An OTC derivative on a *Foreign Security* is a *Foreign Security*. An OTC derivative on a security other than a *Foreign Security* is not a *Foreign Security*.)

EXHIBIT A

SEC Rule 15a-6

Reg. 240.15a-6. (a) A foreign broker or dealer shall be exempt from the registration requirements of sections 15(a)(1) or 15B(a)(1) of the Act to the extent that the foreign broker or dealer:

effects transactions in securities with or for persons that have not been solicited by the foreign broker or dealer; or

furnishes research reports to major U.S. institutional investors, and effects transactions in the securities discussed in the research reports with or for those major U.S. institutional investors, provided that:

the research reports do not recommend the use of the foreign broker or dealer to effect trades in any security;

the foreign broker or dealer does not initiate contact with those major U.S. institutional investors to follow up on the research reports, and does not otherwise induce or attempt to induce the purchase or sale of any security by those major U.S. institutional investors;

if the foreign broker or dealer has a relationship with a registered broker or dealer that satisfies the requirements of paragraph (a)(3) of this rule, any transactions with the foreign broker or dealer

in securities discussed in the research reports are effected only through that registered broker or dealer, pursuant to the provisions of paragraph (a)(3); and

the foreign broker or dealer does not provide research to U.S. persons pursuant to any express or implied understanding that those U.S. persons will direct commission income to the foreign broker or dealer; or

induce or attempts to induce the purchase or sale of any security by a U.S. institutional investor or a major U.S. institutional investor, provided that:

the foreign broker or dealer:

effects any resulting transactions with or for the U.S. institutional investor or the major U.S. institutional investor through a registered broker or dealer in the manner described in paragraph (a)(3)(iii) of this rule; and

provides the Commission (upon request or pursuant to agreements reached between any foreign securities authority, including any foreign government, as specified in section 3(a)(50) of the Act, and the Commission or the U.S. Government) with any information or documents within the possession, custody, or control of the foreign broker or dealer, any testimony of foreign associated persons, and any assistance in taking the evidence of other persons, wherever located, that the Commission requests and that relates to transactions under paragraph (a)(3) of this rule, except that if, after the foreign broker or dealer has exercised its best efforts to provide the information, documents, testimony, or assistance, including requesting the appropriate governmental body and, if legally necessary, its customers (with respect to customer information) to permit the foreign broker or dealer to provide the information, documents, testimony, or assistance to the Commission, the foreign broker or dealer is prohibited from providing this information, documents, testimony, or assistance by applicable foreign law or regulations, then this paragraph (a)(3)(i)(B) shall not apply and the foreign broker or dealer will be subject to paragraph (c) of this rule;

the foreign associated person of the foreign broker or dealer effecting transactions with the U.S. institutional investor or the major U.S. institutional investor:

conducts all securities activities from outside the United States, except that the foreign associated persons may conduct visits to U.S. institutional investors and major United States institutional investors within the United States, provided that:

the foreign associated person is accompanied on these visits by an associated person of a registered broker or dealer that accepts responsibility for the foreign associated person's communications with the U.S. institutional investor or the major U.S. institutional investor; and

transactions in any securities discussed during the visit by the foreign associated person are effected only through the registered broker or dealer, pursuant to paragraph (a)(3) of this rule; and

is determined by the registered broker or dealer to:

not be subject to a statutory disqualification specified in section 3(a)(39) of the Act, or any substantially equivalent foreign

expulsion or suspension from membership,

bar or suspension from association,

denial of trading privileges,

order denying, suspending, or revoking registration or barring or suspending association, or

finding with respect to causing any such effective foreign suspension, expulsion, or order;

not to have been convicted of any foreign offense, enjoined from any foreign act, conduct, or practice, or found to have committed any foreign act substantially equivalent to any of those listed in sections 15(b)(4)(B), or (E) of the Act; and (3) not to have been found to have made or caused to be made any false foreign statement or omission substantially equivalent to any of those listed in section 3(a)(39)(E) of the Act; and

the registered broker or dealer through which the transaction with the U.S. institutional investor or the major U.S. investor is effected:

is responsible for:

(1) effecting the transactions conducted under paragraph (a)(3) of this rule, other than negotiating their terms;

(2) issuing all required confirmations and statements to the U.S. institutional investor or the major U.S. institutional investor;

(3) as between the foreign broker or dealer and the registered broker or dealer, extending or arranging for the extension of any credit to the U.S. institutional investor or the major U.S. institutional investor in connection with the transactions;

(4) maintaining required books and records relating to the transactions, including those required by Rules 17a-3 and 17a-4 under the Act (17 CFR 240.17a-3 and 17a-4);

(5) complying with Rule 15c3-1 under the Act (17 CFR 240.15c3-1) with respect to the transactions; and

(6) receiving, delivering, and safeguarding funds and securities in connection with the transactions on behalf of the U.S. institutional investor or the major U.S. institutional investor in compliance with Rule 15c3-3 under the Act (17 CFR 240.15c3-3);

participates through an associated person in all oral communications between the foreign associated person and the U.S. institutional investor, other than a major U.S. institutional investor;

has obtained from the foreign broker or dealer, with respect to each foreign associated person, the types of information specified in Rule 17a-3(a)(12) under the Act (17 CFR 240.17a-3(a)(12)), provided that the information required by paragraph (a)(12)(d) of that Rule shall include sanctions imposed by foreign securities authorities, exchanges, or associations, including without limitation those described in paragraph (a)(3)(ii)(B) of this rule;

has obtained from the foreign broker or dealer and each foreign associated person written consent to service or process for any civil action brought by or proceeding before the Commission or a self-regulatory organization (as defined in section 3(a)(26) of the Act), providing that process may be served on them by service on the registered broker or dealer in the manner set forth on the registered broker's or dealer's current Form BD; and

maintains a written record of the information and consents required by paragraphs (a)(3)(iii)(C) and (D) of this rule, and all records in connection with trading activities of the U.S. institutional investor or the major U.S. institutional investor involving the foreign broker or dealer conducted under paragraph (a)(3) of this rule, in an office of the registered broker or dealer located in the United States (with respect to nonresident registered brokers or dealers, pursuant to Rule 17a-7(a) under the Act (17 CFR 240.17a-7(a))), and makes these records available to the Commission upon request; or

effects transactions in securities with or for, or induces or attempts to induce the purchase or sale of any security by:

a registered broker or dealer, whether the registered broker or dealer is acting as principal for its own account or as agent for others, or a bank acting in a broker or dealer capacity as permitted by U.S. law;

the African Development Bank, the Asian Development Bank, the Inter-American Development Bank, the International Bank for Reconstruction and Development, the International Monetary Fund, the United Nations, and their agencies, affiliates, and pension funds;

a foreign person temporarily present in the United States, with whom the foreign broker or dealer had a bona fide, pre-existing relationship before the foreign person entered the United States;

any agency or branch of a U.S. person permanently located outside the United States, provided that the transactions occur outside the United States; or

U.S. citizens resident outside the United States, provided that he transactions occur outside the United States, and that the foreign broker or dealer does not direct its selling efforts toward identifiable groups of U.S. citizens resident abroad.

(b) When used in this rule,

(1) the term "family of investment companies" shall mean:

(i) except for insurance company separate accounts, any two or more separately registered investment companies under the Investment Company Act of 1940 that share the same investment adviser or principal underwriter and hold themselves out to investors as related companies for purposes of investment and investor services; and

(ii) with respect to insurance company separate accounts, any two or more separately registered separate accounts under the Investment Company Act of 1940 that share the same investment adviser or principal underwriter and function under operational or accounting or control systems that are substantially similar.

(2) the term "foreign associated person" shall mean any natural person domiciled outside he United States who is an associated person, as defined in section 3(a)(18) of the

Act, of the foreign broker or dealer, and who participates in the solicitation of a U.S. institutional investor or a major U.S. institutional investor under paragraph (a)(3) of this rule.

(3) the term "foreign broker or dealer" shall mean any non-U>S. resident person (including any U.S. person engaged in business as a broker or dealer entirely outside the United States, except as otherwise permitted by this rule) that is not an office or branch of, or a natural person associated with, a registered broker or dealer, whose securities activities, if conducted in the United States, would be described by the definition of "broker" or "dealer" in sections 3(a)(4) or 3(a)(5) of the Act.

(4) the term "major U.S. institutional investor" shall mean a person that is:

(i) a U.S. institutional investor that has, or has under management, total assets in excess of $100 million; provided, however, that for purposes of determining the total assets of an investment company under this rule, the investment company may include the assets of any family of investment companies of which it is a part; or

(ii) an investment adviser registered with the Commission under section 203 of the Investment Advisers Act of 1940 that has total assets under management in excess of $100 million.

(5) the term "registered broker or dealer" shall mean a person that is registered with the Commission under sections 15(b), 15B(a)(2), or 15C(a)(2) of the Act.

(6) the term "United States" shall mean the United States of America, including the States and any territories and other areas subject to its jurisdiction.

(7) the term "U.S. institutional investor" shall mean a person that is:

(i) an investment company registered with the Commission under section 8 of the Investment Company Act of 1940; or

(ii) a bank, savings and loan association, insurance company, business development company, small business investment company, or employee benefit plan defined in Rule 501(a)(1) of Regulation D under the Securities Act of 1933 (17 CFR 230.501(a)(1)); a private business development company defined in Rule 501(a)(2) (17 CFR 230.501(a)(2)); an organization described in section 501(c)(3) of the Internal Revenue Code, as defined in Rule 501(a)(3) (17 CFR 230.5010(a)(3))); or a trust defined in Rule 501 (a)(7) (17 CFR 230.501(a)(7)).

(c) The Commission, by order after notice and opportunity for hearing, may withdraw the exemption provided in paragraph (a)(3) of this rule with respect to the subsequent activities of a foreign broker or dealer or class of foreign brokers or dealers conducted from a foreign country, if the Commission finds that the laws or regulations of that foreign country have prohibited the foreign broker or dealer, or one of a class of foreign brokers or dealers, from providing, in response to a request from the Commission, information or documents within its possession, custody, or control, testimony of foreign associated persons, or assistance in taking the evidence of other persons, wherever located, related to activities exempted by paragraph (a)(3) of this rule.

EXHIBIT B

SERVICES AGREEMENT

THIS SERVICES AGREEMENT (this "**Agreement**") made and entered as of the ●th day of ____, 2003, by and between X. ("**X**") and Y ("**Y**").

RECITALS

A. Y is registered with the Securities and Exchange Commission ("**SEC**") as a broker/dealer and is a member in good standing of the National Association of Securities Dealers, Inc. ("**NASD**") and the New York Stock Exchange, Inc. (the "NYSE"). X is a foreign broker or dealer (as defined below) and is a member in good standing of the Investment Dealers Association of Canada, Inc.

B. X proposes to furnish research reports relating to securities and issuers to Major U.S. Institutional Investors (as defined below), and effect transactions in the securities discussed in those research reports as well as other securities with or for those Major U.S. Institutional Investors.

D. X and Y wish to enter into a relationship such that any such transactions in the securities, including those discussed in X research reports with or for Major U.S. Institutional Investors are effected through Y in accordance with SEC Rule 15a-6 under the Exchange Act (as defined below).

NOW, THEREFORE, for and in consideration of the promises and mutual covenants contained in the Agreement and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Definitions.

Whenever used in this Agreement:

(a) "**associated person**" means any partner, officer, director, or branch manager of a broker or dealer (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such broker or dealer, or any employee of such broker or dealer, other than any person associated with a broker or dealer whose functions are solely clerical or ministerial.

(b) "**Exchange Act**" means the *United States Securities Exchange* Act of 1934.

(c) "**foreign associated person"** means any natural person domiciled outside the United States who is an associated person, of a foreign broker or dealer, and who participates in the solicitation of a Major U.S. Institutional Investor pursuant to this Agreement. X's foreign associated persons shall initially consist of _____, _____ and _____. Foreign associated persons can be added or deleted by notice given under this Agreement.

(d) "**foreign broker or dealer**" shall mean any non-U.S. resident person (including any U.S. person engaged in business as a broker or dealer entirely outside the United States, except as otherwise permitted by this rule) that is not an office or branch of, or a natural person associated with, a registered broker or dealer, whose securities activities, if conducted in the United States, would be described by the definition of "broker" or "dealer" in the Exchange Act.

(e) "**Major U.S. Institutional Investor**" means a person that is:

(i) A U.S. Institutional Investor that has, or has under management, total assets in excess of U.S. $100 million; provided, however, that for purposes of determining the total assets of an investment company, the investment company may include the assets of any family of investment companies of which it is a part; or

(ii) An investment adviser registered with the SEC under Section 203 of the *United States Investment Advisers Act of 1940* that has total assets under management in excess of U.S. $100 million.

(f) "**U.S. Institutional Investor**" means a person that is:

(i) An investment company registered with the SEC under Section 8 of the *United States Investment Company of 1940*; or

(ii) A bank, savings or loan association, insurance company, business development company, small business investment company, or employee benefit plan defined in Rule 501(a)(1) of Regulation D under the *United States Securities Act of 1933* (the "**Securities Act**"); a private business development company as defined in Rule 501(a)(2) of the Securities Act; an organization described in Section 501(c)(3) of the Internal Revenue Code; as defined in Rule 501(a)(3) of the Securities Act; or a trust described in Rule 501(a)(7) of the Securities Act.

(g) "**United States**" means the United States of America, including the States and any territories and other areas subject to its jurisdiction.

2. Y Representations and Warranties.

Y represents and warrants that:

(a) Y is a member in good standing of the NASD and the NYSE.

(b) Y is duly registered with the SEC as a broker/dealer under Section 15 of the Exchange Act and is registered as a broker/dealer under the securities laws of each state in which Y's activities require such registration.

(c) Y has all requisite authority, whether arising under applicable United States federal or state laws, rules and regulations or the laws and regulations of any national securities association or exchange to which it is subject, and has taken all requisite action to enter into this Agreement.

(d) Y is in compliance, and during the term of this Agreement will remain in compliance, with the net capital, customer protection and financial reporting requirements of the SEC and of every national securities association or exchange and securities clearing agency of which Y is a member and every state and other regulatory authority to whose jurisdiction it is subject.

(e) This Agreement, when executed and delivered hereunder will be a legal, valid and binding obligation of Y, enforceable against Y in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency or reorganization, moratorium or similar laws

affecting the enforcement of creditors' rights generally, and except as availability of certain equitable remedies may be limited by certain principles of general applicability.

(f) Y will promptly notify X and will forthwith discontinue effecting transactions pursuant to the provisions hereof, if any of the foregoing representations and warranties will no longer be true and correct in all respects.

3. X Representations and Warranties.

X represents and warrants that:

(a) X is registered as [an investment dealer] in the Province of Ontario, Canada, and is in good standing in each jurisdiction in which it conducts business.

(b) X has all requisite authority, whether arising under applicable Canadian provincial laws, rules and regulations to which X is subject, to enter into this Agreement.

(c) Neither X nor X's foreign associated persons has been the subject of a Disciplinary Event as defined in Paragraph 4(h) of this Agreement. X shall confirm this representation by delivering to Y, as soon as practicable, certified copies of the disciplinary history section of Form BD for itself and Form U-4 for each foreign associated person.

(d) X is in compliance, and during the term of this Agreement will remain in compliance, with any applicable net capital, customer protection and financial reporting requirements of the Ontario Securities Commission and of every Canadian securities association or exchange and securities clearing agency of which X is a member and every state and other regulatory authority to whose jurisdiction it is subject.

(e) This Agreement, when executed and delivered hereunder will be a legal, valid and binding obligation of X, enforceable against X in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency or reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally, and except as availability of certain equitable remedies may be limited by certain principles of general applicability.

(f) X will promptly notify Y and will forthwith discontinue effecting transactions pursuant to the provisions hereof, if any of the foregoing representations and warranties will no longer be true and correct in all respects.

4. Transactions.

It is agreed by Y and X that during the term of this Agreement:

(a) X may furnish research reports relating to securities and issuers (the "**Research Reports**"), either by post or electronic mail to persons it reasonably believes are Major U.S. Institutional Investors.

(b) The Research Reports will not recommend the use of X to effect trades in any security.

(c) X will not initiate contact with those Major U.S. Institutional Investors to follow up on the Research Reports, and will not otherwise induce or attempt to induce the purchase or sale of any security by those Major U.S. Institutional Investors.

(d) X will not provide research to Major U.S. Institutional Investors pursuant to any express or implied understanding that those U.S. persons will direct commission income to X.

(e) If any Major U.S. Institutional Investors contact any X foreign associated persons for the purpose of effecting any transactions in securities whether or not discussed in the Research Reports, then such X foreign associated person shall either

(i) on a pre-sale basis, contact a Y affiliated person designated by Y as responsible for such purposes who is available during normal New York business hours who will effect such transactions for or on behalf of the Major U.S. Institutional Investor as Y customers, or

(ii) on a pre-sale basis, use Y electronic communication systems to communicate the order details in a manner whereby the Major U.S. Institutional Investor places such order with Y as a Y customer to effect such transactions;

provided, however, in that in each case, Y shall retain X as its agent to acquire or dispose of any securities which are the subject of the transactions which are not traded on a United States based exchange or electronic trading system (collectively the foregoing are described herein as the "Transactions").

(f) All Transactions shall be on a delivery-versus-payment received/received-versus-payment basis and neither X nor Y shall extend credit or margin to such customers or hold securities or other property on behalf of such customers.

(g) Any X foreign associated person effecting transactions with Major U.S. Institutional Investors:

(i) Shall conduct all securities activities from outside the United States, except that X foreign associated persons may conduct visits to Major U.S. Institutional Investors within the United States, provided that:

(1) The X foreign associated person is accompanied on these visits by a Y associated person that accepts responsibility for the X foreign associated person's communications with Major U.S Institutional Investors; provided however, that X foreign associated persons may spend up to 30 days in the United States in each twelve month period visiting Major U.S. Institutional Investors without being accompanied by a Y associated person.

(2) Transactions in any securities discussed during the visit by the X foreign associated person are effected only through Y, pursuant to this Agreement.

(h) Y shall have determined from information made available by X that any X foreign associated person effecting transactions with Major U.S. Institutional Investors

(i) Is not subject to a statutory disqualification specified in Section 3(a)(39) of the Exchange Act, or any substantially equivalent foreign

(1) expulsion or suspension from membership,

(2) bar or suspension from association,

(3) denial of trading privileges,

(4) order denying, suspending, or revoking registration or barring or suspending association, or

(5) finding with respect to causing any such effective foreign suspension, expulsion, or order;

(ii) Has not been convicted of any foreign offense, enjoined from any foreign act, conduct, or practice, or found to have committed any foreign act substantially equivalent to any of those listed in Sections 15(b)(4) (B), (C), (D), or (E) of the Exchange Act.

(iii) Has not been found to have made or caused to be made any false foreign statement or omission substantially equivalent to any of those listed in Section 3(a)(39)(E) of the Exchange Act.

Each of the foregoing events shall be referred to in this Agreement as a “Disciplinary Event”.

(i) The parties to this Agreement shall cooperate in communicating the nature of their relationship to the Major U.S. Institutional Investors in a consistent manner agreed upon by the parties.

5. Services to be Performed by Y.

(a) Y agrees that it shall be responsible for:

(i) Opening and maintaining accounts for the Major U.S. Institutional Investors for whom transactions are effected in accordance with Section 4 of this Agreement and effecting such Transactions on their behalf, other than negotiating their terms. For this purpose, Y shall designate one or more Y affiliated persons who will be responsible for effecting Transactions and who are available during normal New York business hours, and ensure that Y’s electronic communications system is fully operational during normal New York business hours and is able to accept confirmations during such times.

(ii) Issuing all required confirmations and statements to the Major U.S. Institutional Investors.

(iii) Maintaining required books and records relating to the Transactions, including those required by Rules 17a-3 and 17a-4 under the Exchange Act.

(iv) Complying with Rule 15c3-1 under the Exchange Act with respect to the Transactions.

(v) Receiving, delivering, and safeguarding funds and securities in connection with the Transactions on behalf of the Major U.S. Institutional Investors in compliance with Rule 15c3-3 under the Exchange Act.

(b) Y shall obtain on execution hereof from X, with respect to each X foreign associated person, the types of information specified in Rule 17a-3(a)(12) under the Exchange Act, provided that the information required by paragraph (a)(12)(d) of that Rule shall include sanctions imposed by foreign securities authorities, exchanges, or associations.

(c) Y shall obtain from X and each X foreign associated person, written consent to service of process for any civil action brought by or proceeding before the SEC or a self-regulatory organization (as defined in Section 3(a)(26) of the Exchange Act) in the form attached as Exhibit A, providing that process may be served on them by service on Y in the manner set forth on Y's current Form BD.

(d) Y shall maintain a written record of the information and consents required by paragraphs (b) and (c) of this Section, and all records in connection with trading activities of the Major U.S. Institutional Investors involving X conducted as described in Section 4 hereof, in the New York City office of Y (with respect to nonresident registered brokers or dealers, pursuant to Rule 17a-7 under the Exchange Act), and shall make these records available to the SEC.

(e) X acknowledges that Y is not a self-clearing broker-dealer, and that Y holds customer accounts, funds and securities through clearing arrangements with other firms authorized to conduct such business. X consents to Y performing the functions to be performed by it in this Section 5 through one or more such clearing firms, on a fully-disclosed basis, provided, that Y shall remain liable to X hereunder for the failure of any such clearing firm to perform any function required to be performed by Y hereunder.

(f) X shall be responsible for any loss resulting from non-performance by a customer introduced by X, and on any dealer contracts entered into on behalf of such customer. Y shall assist X in resolving any trade errors, "DKs", failures to deliver or similar events; however, the resolution of such matters shall be the primary responsibility of X, in the absence of negligence or willful misconduct by Y; and X will compensate Y for its actual losses and reasonable fees and expenses for dealing with such situations as they arise.

6. Provision of Information to the SEC.

X agrees that it will use its best efforts to provide the SEC (upon request or pursuant to agreements reached between any foreign securities authority, including any foreign government, as specified in Section 3(a)(50) of the Exchange Act, and the SEC or the U.S. Government) with any information or documents within the possession, custody, or control of X, any testimony of X foreign associated persons, and any assistance in taking the evidence of other persons, wherever located, that the SEC requests and that relates to the Transactions.

7. Proprietary Rights.

Y and X each understand that the data and information exchanged and disclosed by the other party pursuant to this Agreement is confidential. Each party undertakes to retain in trust and confidence all confidential information received from the other party and will use the same degree of care to avoid unauthorized disclosure or use of such information as each party uses with respect to its own most confidential information. Each party agrees not to disclose such confidential information to any third party, unless authorized to do so by prior written consent of the other party or as required by law or a regulatory authority; provided, however, that if any such disclosure of the other party's data or information is so required, the party from whom such disclosure is sought will give the other party prompt notice of the

request for disclosure to allow such other party an opportunity to contest the required disclosure. Neither party will have the right to use or advertise using the name of the other party without prior written approval of such party.

8. Compensation.

Y will remit an amount equal to __% of any commissions charged by Y on any Transactions to X, such amounts to be remitted on the 15th day (or the next business day if such day is not a business day) of each month for all Transactions settled during the prior calendar month (net of any charges arising under Section 5(f)) by wire in same day funds.

9. Indemnification.

(a) X hereby agrees to indemnify, protect and hold harmless Y from and against all claims, demands, proceedings, suits and actions and all liabilities, expenses and costs in connection therewith arising out of any action or proceeding brought against Y or X by any person based upon a violation by X of the rules of any regulatory or self-regulatory organization or any sales practice violation or misrepresentation or omission caused by X or any of its designated foreign associated persons, or any breach of X's representations, warranties or undertakings under this Agreement.

(b) Y hereby agrees to indemnify, protect and hold harmless X from and against all claims, demands, proceedings, suits and actions and all liabilities, expenses and costs in connection therewith arising out of any action or proceeding brought against Y or X by any person based upon a violation by Y of the rules of any regulatory or self-regulatory organization or any sales practice violation of misrepresentation or omission caused by Y, or any breach of Y's representations, warranties or undertakings under this Agreement.

10. Construction of Agreement.

Neither this Agreement nor the performance of the services hereunder will be considered to create a joint venture or partnership between Y and X and the arrangements established hereby shall be non-exclusive with each party entitled to effect Transactions using other means.

11. Term and Termination.

(a) This Agreement shall remain in effect until X or an affiliate thereof has registered with the SEC and become a member of the NASD, not to exceed a period of six months from the date hereof, subject to extension for successive one month periods with the consent of both parties.

(b) This Agreement may be terminated by either party with ten days prior written notice given to the other party.

12. Force Majeure.

Neither party nor any of their respective affiliates, directors, officers, employees or agents will be responsible, if such party is unable to fulfill its obligations under this Agreement due to the breakdown or failure of transmission or communication facilities not caused by such party's negligence, or to any other cause or causes beyond such party's reasonable control or anticipation. Notwithstanding the foregoing, in the event of such breakdown or failure, such party agrees to use its best efforts to fulfill its

obligations under this Agreement by the most efficient alternative transmission or communications means available.

13. Notice.

Any notices required to be given under this Agreement will be deemed given (a) if personally delivered, (b) upon receipt of a facsimile transmission, or (c) by overnight delivery service. Facsimile transmissions will be deemed received when a confirmation of receipt is generated by the transmission system, and notices sent by overnight delivery service will be deemed received when delivery is confirmed by such service. For the purposes of delivery of any notice hereunder, the address, telephone number and facsimile number of Y and X, respectively, will be as set forth below. Either party may change its address for notice purposes by giving written notice of the new address to the other party.

14. Binding Effect.

This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and transfers of every kind. No assignment of this Agreement will be valid unless expressly agreed to in writing by the other party.

15. Governing Law.

This Agreement will be governed by the laws of the State of New York without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the parties have hereunto affixed their hands as of the day and year first above written.

Y

By:_____
Name:
Title

X

By:_____
Name:
Title

EXHIBIT A

Consent for Service of Process

X ("X") and _____, _____, and _____ (together, the "X associated persons") hereby irrevocably consents that service of any process, pleading, subpoena, or other document in any investigation or administrative proceeding before the Securities and Exchange Commission, Commodity Futures Trading Commission or a U.S. federal or state jurisdiction or in any civil action in which the SEC, CTFC or a U.S. federal or state jurisdiction are plaintiffs, or the notice of any investigation or proceeding by any self-regulatory organization in connection with either X's or any X associated person's broker-dealer activities, or of any application for a protective decree filed by the Securities Investor Protection Corporation, may be given by registered or certified mail or confirmed telegram to _____.

Dated: _____, 2003

Acknowledged and Agreed:

X

By:_____
Name:
Title

X associated persons:

_____
Name:

_____
Name:

_____
Name:

Accepted:

Y

By:_____
Name:
Title:

Summary of SEC Regulation S

Regulation S under the Securities Act of 1933, as amended (the "Securities Act") is a safe harbour rule that defines when an offering of securities would be deemed to come to rest abroad so as no to be subject to the registration obligations imposed under Section 5 of the *Securities Act*. The General Statement to *Regulation S* applies a territorial approach to *Securities Act* registration by providing that offers and sales subject to Section 5 include offers and sales that occur within the United States and do not include offers and sales that occur outside the United States. *Regulation S* also includes several *safe harbour* exemptions[2] addressing specified transactions.

Each safe harbour is subject to two *general conditions*:

1. The offer or sale must occur in an "*offshore transaction.*" This means that (i) the seller reasonably believes that the buyer is offshore at the time of the offer or sale or (ii) the transaction occurs on certain "*designated offshore securities markets*," which includes each of the Canadian stock exchanges participating in the Committee, and the transaction is not pre-arranged with a buyer in the United States.

2. That no "*directed selling efforts*" may be made in the United States by the issuer, a distributor, any of their respective affiliates, or any person acting on behalf of any of the foregoing. These activities consist of efforts reasonably expected to condition the U.S. market for the securities.

Rule 903 provides specific rules for offerings by issuers, distributors and their respective affiliates:

Category 1: (a) securities of a "*foreign issuer*" for which there is no "*substantial U.S. market interest*" (as defined below), (b) securities offered by a "*foreign issuer*" in "*overseas directed offerings*" (as defined below, (c) non-convertible debt securities of a domestic issuer offered in *overseas directed offerings* that are denominated in a currency other than U.S. dollars, and (d) securities backed by the full faith and credit of a foreign government.

An example of the restrictions that apply to Category 1 equity offerings is attached as **Exhibit A**.

In these cases, only the *general conditions* referred to above must be observed.

Category 2: (a) equity offerings by reporting *foreign issuers*, and (b) offerings of debt securities and non-convertible, non-participating preferred stock by reporting issuers or non-reporting *foreign issuers*. To be treated as a qualified reporting issuer, the issuer must have filed all required reports for at least twelve months prior to the offer or sale, or such shorter period during which the issuer was subject to the reporting obligation.

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2 A *safe harbour* exemption is an exemption that is not the exclusive means that must be employed to fall within a more general exemption or jurisdictional limitation. By promulgating a safe harbour, the SEC is affirming that someone complying with its requirements will definitely have the benefit of the broader exemption or limitation.

Offering Restrictions must be observed, which include prohibitions on resales to U.S. Persons during the *distribution compliance period*, in addition to the application of the general conditions. Generally, a 40-day *distribution compliance period* (i.e., the period during which the restrictions required by the particular category remain in effect) will apply, which will have to be codified in a written agreement with each distributor and reflected in the offering documentation and on all confirmations issued to distributors and others receiving transaction-based compensation and to purchasers during the *distribution compliance period*.

Category 3: offerings of all other securities, including (a) equity offerings by domestic reporting issuers, (b) offerings of equity securities by non-reporting *foreign issuers* for which there is a *substantial U.S. market interest* and (c) offerings by U.S. issuers that are not reporting issuers. These offerings are subject to the most stringent conditions.

For debt securities the offering restrictions are the same as for Category 2, plus the need to use a temporary global certificate to support the 40-day *distribution compliance period*.

For equity securities, the *distribution compliance period* is increased to one year, and the purchaser must also provide a certification as to its non-U.S. status and must agree not to resell to a U.S. Person except in accordance with U.S. requirements, in addition to compliance with the restrictions applicable to Category 2.

The securities of a *domestic issuer* must bear a restrictive legend, supported by stop transfer instructions. The documentation required in the case of such issuers must refer to the prohibition on certain hedging transactions during the *distribution compliance period* that would have the effect of pre-selling, the securities into the United States and distributors must agree in writing to observe this prohibition.

Rule 904 provides a *safe harbour* for certain resale transactions by persons other than the issuer, a distributor, any of their respective affiliates (except any officer or director who is an affiliate solely by virtue of such office), or any person acting on their behalf. They are subject to the following conditions:

1. All permitted sellers are subject to the *general conditions*.

2. In the case of a seller who is a dealer or a person receiving any remuneration, a resale cannot be knowingly made to a *U.S. Person* prior to the end of the relevant *distribution compliance period.* A confirmation stating the applicable securities law restrictions must be sent to any other dealer or person receiving selling compensation person.

3. No special compensation can be paid if the seller is an officer or director of the issuer.

4. The safe harbour is not available to "*affiliates"* of the issuer, except where affiliation arises solely from the status of the seller as an officer or director. An *affiliate*" is any person controlling, controlled by or under common *control* with the issuer. "*Control*" for this purpose means *de facto control*. A strong inference of *control* based upon voting influence often arises at the 10% threshold, although other factors may demonstrate or point away from *control*.

5. Transactions must be effected through a "*designated offshore securities market*" in a transaction not pre-arranged with a *U.S. Person* or in a transaction involving a buyer outside of the United States at the time the buy order is originated.

6. Care must be taken to ensure that the transaction does not involve a scheme to evade the *Securities Act* registration requirements, including for the purpose of *washing off* transfer restrictions.

Rule 905 provides that equity securities of domestic issuers acquired from the issuer, distributor, or any of their respective *affiliates* in a transaction subject to the *safe harbour* rules discussed above are deemed to be *restricted securities*, and resales by any offshore purchaser must be made pursuant to *Regulation S* or another exemption from *Securities Act* registration.

The following definitions are integral to an understanding of *Regulation S*.

1. "*U.S. Person*": For individuals, based largely on residence, rather than nationality. Entities have residence largely based upon where they are formed, with the exception of identifiable branches of entities, which may themselves be treated as the equivalent of separate organizations. *Accredited investors* can form an offshore entity that will be treated as a *non-U.S. Person* for this purpose.

   Detailed rules govern trusts and estates, and other professional fiduciaries, which are designed to mitigate disadvantages to U.S. professional fiduciaries by ensuing that, subject to certain conditions, offers to them for the account of non-U.S. Pesons will not trigger *Securities Act* registration, despite the making of an offer to the fiduciary in the United States.

2. "*Substantial U.S. Market Interest" or "*SUSMI": present with respect to a class of equity securities if (i) U.S. securities exchanges and NASDAQ in the aggregate constituted the single largest market for such class of securities in the issuer's prior fiscal year, or (ii) 20% or more of trading in the class of equity securities during such period occurred in such U.S. markets and less than 55% of trading in such securities took place during that period through the facilities of the securities markets or a single foreign country. Separate *SUSMI* rules apply in the case of debt securities.

3. A "foreign issuer" is a foreign organized entity other than such an entity that has more than 50 percent of its voting securities being held by U.S. residents and either (i) the business of the company is administered principally in the U.S., (ii) 50 percent or more of its directors or executive officers are U.S. residents or (iii) more than 50% of its assets are located in the United States.

4. "*Overseas Directed Offering*": An offering by a *foreign issuer* "directed into a single country other than the United States to the residents thereof … in accordance with the local laws and customary practices and documentation of such country…."

5. "*Offering Restrictions*": Offering restrictions require each distributor to agree in writing that all offers and sales of the securities prior to the expiration of the *distribution compliance period* (A) shall be made only (i) in accordance with the provisions of the applicable *safe harbours*, (ii) pursuant to registration of the securities under the *Securities Act*, or (iii) pursuant to an available exemption from the registration requirements of the *Securities Act* and (B) for offers and sales of equity securities of *domestic issuers* not to engage in certain prohibited hedging transactions prior to the end of the *distribution compliance period*. The offering restrictions also require that all offering materials and documents (other than press releases) used in connection with offers and sales of the

securities prior to the expiration of the *distribution compliance period* must include statements to the effect that the securities have not been registered under the *Securities Act* and may not be offered or sold in the United States or to *U.S. Persons* (other than distributors) unless the securities are registered under the *Securities Act* or an exemption from the registration requirements of the *Securities Act* is available, and, in the case of equity offerings by *domestic issuers*, statements concerning the hedging prohibition. Such statements should appear (i) on the cover or inside cover page of any prospectus or offering circular used in connection with the offer or sale of the securities, (ii) in the underwriting section of any prospectus or offering circular used in connection with the offer or sale of the securities, and (iii) in any advertisement made or issued by the issuer, any distributor, any of their respective *affiliates*, or any person acting on behalf of any of the foregoing. Such statements may appear in a summary form on prospectus cover pages and in advertisements.

Broker-dealers must ensure that they are not unlawfully effecting distributions of Canadian securities in the United States in violation of *Regulation S* and other U.S. securities law requirements. This may result, for example, from purchases of small cap issues by foreign accounts from the issuer, a promoter or affiliated entities ostensibly using *Regulation S* or some other purported exemption for resale into the United States for the purpose of effecting a distribution. Such transactions may be found to violate the registration requirements of the *Securities Act* and have severe consequences.

EXHIBIT A

RULE 506 U.S. PRIVATE PLACEMENTS IN CONJUNCTION WITH CATEGORY 1 OFFSHORE OFFERINGS

As used in this Exhibit A capitalized terms used herein and not defined shall have the meanings ascribed thereto in the Agency Agreement to which this Exhibit is annexed and the following terms shall have the definitions set forth below:

"**Directed Selling Efforts**" means directed selling efforts as that term is defined in Rule 902(b) of Regulation S. Without limiting the foregoing, but for greater clarity in this Exhibit, it means, subject to the exclusions from the definition of directed selling efforts contained in Regulation S, any activity undertaken for the purpose of, or that could reasonably be expected to have the effect of, conditioning the market in the United States for any of the **[insert title of securities and underlying securities]**, and includes the placement of any advertisement in a publication with a general circulation in the United States that refers to the offering of the **[insert title of securities and any underlying securities]**;

"**Foreign Issuer**" means a foreign issuer as that term is defined in Rule 902(f) of Regulation S;

"**Institutional Accredited Investor**" means an institutional accredited investor as that term is defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D.

"**Offshore Transaction**" means offshore transaction as that term is defined in Rule 902(i) of Regulation S;

"**Regulation D**" means Regulation D adopted by the SEC under the U.S. Securities Act;

"**Regulation S**" means Regulation S adopted by the SEC under the U.S. Securities Act;

"**SEC**" means the United States Securities and Exchange Commission.

"**Substantial U.S. Market Interest**" means substantial U.S. market interest as that term is defined in Rule 902(n) of Regulation S;

"**United States**" means the United States of America, its territories and possessions, any state of the United States, and the District of Columbia;

"**U.S. Person**" means a U.S. Person as that term is defined in Rule 902(o) of Regulation S, and includes (i) any natural person resident in the United States and (ii) any partnership or corporation organized or incorporated under the laws of the United States, among other persons specified in such Rule;

"**U.S. Securities Act**" means the United States Securities Act of 1933, as amended.

Representations Warranties and Covenants of the Agent

The Agent acknowledges that the [**title of securities and underlying securities**] have not been and will not be registered under the U.S. Securities Act and may be offered and sold only in transactions exempt from or not subject to the registration requirements of the U.S. Securities Act and state securities or "Blue Sky" laws. Accordingly, the Agent represents and warrants to and covenants with the Company that:

1. Except for offers and sales made in the manner described in paragraphs 2 to 6 hereof (the "U.S. Private Placement'), the Agent has offered and sold, and will offer and sell the

[**title of securities**] only in offshore transactions in accordance with Rule 903 of Regulation S or as provided in paragraphs 2 through 6 below. Accordingly, except in respect of the U.S. Private Placement, neither the Agent, its affiliates nor any persons acting on behalf of any of them has made or engaged in or will make or engage in any (i) offer to sell, any solicitation of an offer to buy or any sale of any [**title of securities**] to any person in the United States, (ii) sale of [**title of securities**] to any purchaser unless, at the time the buy order was or will have been originated, the purchaser was outside the United States or such Agent or person acting on its behalf reasonably believed that such purchaser was outside the United States, or (iii) Directed Selling Efforts in the United States with respect to the [**title of securities**].

2. The Agent, acting through its U.S. broker-dealer affiliate or other U.S. registered broker-dealer (the "Selling Agent") may offer and sell the [**title of securities**] in the United States to Institutional Accredited Investors, with which the Selling Agent or the Company has a preexisting relationship, pursuant to an exemption from the registration requirements of the U.S. Securities Act for non-public offerings.

3. Immediately prior to soliciting any offerees located in the United States, the Agent had reasonable grounds to believe and did believe that each such offeree was an Institutional Accredited Investor.

4. No form of general solicitation or general advertising (as those terms are used in Regulation D) has been or will be used by the Agent, its affiliates or persons acting on behalf of any of them, including advertisements, articles, notices or other communications published in any newspaper, magazine or similar media or broadcast over radio or television or any seminar or meeting whose attendees had been invited by general solicitation or general advertising, in connection with the offer or sale of the **[title of securities]** in the United States.

5. All purchasers of the [**title of securities**] in the United states shall be informed that the [**title of** securities and underlying securities] have not been and will not be registered under the U.S. Securities Act and the [**title of securities**] are being offered and sold to such purchasers in reliance on an exemption from the registration requirements of the U.S. Securities Act for non-public offerings.

[6. Each offeree in the United States shall be provided with a U.S. private placement memorandum (the "U.S. Memorandum"), which shall include the Preliminary Prospectus and/or the Prospectus used in any contemporaneous Canadian public offering, and each purchaser will have received at the time of purchase of any [title of securities] the U.S. Memorandum, including the final Prospectus used in the Canadian public offering. The U.S. Memorandum shall contain disclosure in substantially the form set forth below:

"The [title of securities and underlying securities] have not been and will not be registered under the U.S. Securities Act and are being offered and sold within the United States only to Institutional Accredited Investors (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the U.S. Securities Act). Prospective purchasers of [title of securities] are hereby notified that the seller of [title of securities] may be relying upon the exemption from the provisions of Section 5 of the U.S. Securities Act provided in Section 4(2) of the U.S. Securities Act for non-public offerings. The [title of securities]

offered hereby are not transferable except in accordance with the restrictions described herein.

"Each purchaser of [title of securities] offered hereby will, by its purchase of the [title of securities], be deemed to have represented, warranted and agreed for the benefit of the Company, the Agent and their respective affiliates and persons acting on their behalf as follows:

[Insert representations, warranties and covenants from Section 6 below modified as the context requires.]

As a condition of the purchase of the [title of securities], each U.S. purchaser will be required to execute and deliver to the Agent a U.S. Subscription Agreement to the foregoing effect, among other terms and conditions.]

7. Prior to completion of any sale of [**title of securities**] in the United States, each U.S. purchaser of such securities (the "Subscriber") will be required to have represented, warranted and agreed for the benefit of the Company, the Agent and their respective affiliates and persons acting on their behalf in a U.S. Subscription Agreement executed by each of them and delivered to the Agent as follows, among other terms and conditions:

a. The Subscriber understands that the [title of securities and underlying securities] have not been and will not be registered under the United States Securities Act of 1933, as amended (the "U.S. Securities Act") and that the sale contemplated hereby is being made in reliance on an exemption from registration under the U.S. Securities Act for nonpublic offerings;

b. The Subscriber is an institutional "accredited investor" within the meaning of Rule 501(a)(1), (2), (3) or (7) under the U.S. Securities Act;

c. The Subscriber understands that all documents, records and books pertaining to this investment have been made available for inspection by the Subscriber or its representatives, and that the books and records of the Company will be available, upon reasonable notice, for inspection by prospective investors during reasonable business hours at the Company's principal place of business. The Subscriber acknowledges that it and its representatives have had a reasonable opportunity to ask questions of and receive answers from management of the Company, or a person or persons acting on its behalf concerning the offering of [**title of securities**], and all such questions have been answered to the full satisfaction of the Subscriber;

d. The Subscriber acknowledges that an investment in [**title of securities**] is speculative and that it has such knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risks of an investment in [**title of securities**] and it is able to bear the economic risk of loss of such investment;

e. The Subscriber is purchasing the [**title of securities**] for its own account or for the account of another Institutional Accredited Investor with respect to which it exercises sole investment discretion for investment purposes only and not with a view to resale or distribution in violation of the U.S. securities laws and, in particular, the Subscriber has no agreement, understanding or intention to distribute, sell, transfer or

pledge any of the [**title of securities and underlying securities**] or any part thereof (each, a "Transfer"), directly or indirectly, in the United States or to "U.S. Persons"; provided, however, that if the Subscriber decides to Transfer any of the [**title of securities and underlying securities**] in the future it will do so only in accordance with applicable legal requirements and the conditions set forth in paragraph (g) hereof;

f. The Subscriber acknowledges that it has not purchased the [**title of securities**] as a result of any form of general solicitation or general advertising, including advertisements, articles, notices or other communications published in any newspaper, magazine or similar media or broadcast over radio, or television, or any seminar or, meeting whose attendees have been invited by general solicitation or general advertising;

g. The Subscriber understands that the [**title of securities**] are restricted securities and agrees that if it decides to Transfer any of the [**title of securities and underlying securities**], it will not do so, directly or indirectly, except (i) to the Company; (ii) outside the United States in a transaction meeting the requirements of Rule 904 of Regulation S under the U.S. Securities Act and in compliance with applicable local laws and regulations of the jurisdiction(s) in which such sale is made; (iii) inside the United States pursuant to the exemption from the registration requirements provided by Rule 144A under the U.S. Securities Act, if available, and in accordance with applicable state securities laws; or (iv) in a transaction that does not require registration under the U.S. Securities Act or applicable state securities laws, and the Subscriber has, prior to such sale, furnished to the Company an opinion to that effect of counsel reasonably satisfactory to the Company to the foregoing effect;

h. The Subscriber understands and acknowledges that upon the original issuance of the [**title of securities**], and until no longer required under the U.S. Securities Act or applicable state securities laws, the certificates representing the [**title of securities** and underlying securities] will bear the following legend:

> THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. SECURITIES ACT"). THE HOLDER HEREOF, BY PURCHASING SUCH SECURITIES AGREES FOR THE BENEFIT OF THE COMPANY THAT SUCH SECURITIES MAY BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY (A) TO THE COMPANY, (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE U.S. SECURITIES ACT AND IN COMPLIANCE WITH APPLICABLE LOCAL LAWS AND REGULATIONS, (C) PURSUANT TO THE EXEMPTION FROM THE REGISTRATION REQUIREMENTS UNDER THE U.S. SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER, IF AVAILABLE, AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS, OR (D) PURSUANT TO ANOTHER EXEMPTION FROM REGISTRATION AFTER PROVIDING A SATISFACTORY LEGAL OPINION TO THE COMPANY. DELIVERY OF THIS CERTIFICATE MAY NOT CONSTITUTE "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON STOCK EXCHANGES IN CANADA. A NEW CERTIFICATE, BEARING NO LEGEND, DELIVERY OF WHICH WILL CONSTITUTE "GOOD DELIVERY" MAY BE OBTAINED FROM THE COMPANY UPON DELIVERY OF THIS CERTIFICATE AND A DULY EXECUTED DECLARATION, IN A FORM SATISFACTORY TO THE COMPANY

AND ITS REGISTRAR AND TRANSFER AGENT, TO THE EFFECT THAT THE SALE OF THE SECURITIES REPRESENTED HEREBY IS BEING MADE IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE U.S. SECURITIES ACT OR AS PRESCRIBED BY THE COMPANY FROM TIME TO TIME;"

and that any certificate representing securities issued in exchange therefor or in substitution thereof will bear the same legend; provided that if the [**title of securities and underlying securities**], as the case may be, are being sold under paragraph (g)(ii), the legend may be removed by providing a declaration to the Company's registrar and transfer agent to the following effect (or as the Company may prescribe from time to time), and provided that the Company may at any time rescind this procedure for the removal of restrictive legends if it determines that this procedure no longer complies with applicable legal requirements:

"The undersigned acknowledges that the sale of the securities to which this declaration relates is being made in reliance on Rule 904 of Regulation S under the United States Securities Act of 1933 (the "U.S. Securities Act"), and the undersigned certifies that: (1) the seller is not an affiliate of the Company (as defined in Rule 405 under the U.S. Securities Act); (2) the offer of such securities was not made to a person in the United States and either (a) at the time the buy order was originated, the buyer was outside the United States, or the seller and any person acting on its behalf reasonably believes that the buyer was outside the United States, or (b) the transaction was executed in, on or through the facilities of the Vancouver Stock Exchange, The Toronto Stock Exchange, the Montreal Exchange or any other designated offshore securities market, and neither the seller nor any person acting on its behalf knows that the transaction has been prearranged with a buyer in the United States; (3) neither the seller nor any affiliate of the seller nor any person acting on any of their behalf has engaged in any directed selling efforts in the United States in connection with the offer and sale of such securities; (4) the sale is bona fide and not for the purpose of "washing off" the resale restrictions imposed because the securities are "restricted securities" (as such term is defined in Rule 144(a)(3) under the U.S. Securities Act), and (5) the contemplated sale is not a transaction or part of a series of transactions which, although in technical compliance with Regulation S is part of a plan or scheme to evade the registration provisions of the U.S. Securities Act. Terms used herein have the meanings given to them by Regulation S under the U.S. Securities Act."

i. The Subscriber consents to the Company making a notation on its records or giving an instruction to the Company's registrar and transfer agent to make a notation in order to implement the restrictions on transfer set forth herein;

j. The address of the Subscriber at which it received and accepted the offer to purchase the Securities is the address listed on the signature page of this Agreement and the Subscriber has not been formed for the specific purpose of acquiring the [**title of securities**];

k. The Subscriber acknowledges that the resale of [**title of securities and underlying securities**] acquired by the Subscriber are subject to certain resale restrictions under Canadian securities laws and stock exchange rules, and the Subscriber agrees to comply with such resale restrictions;

l. Upon acceptance, this Agreement will constitute a legal, valid and binding contract enforceable against the Subscriber in accordance with its terms and will not violate or conflict with the terms of any restriction, agreement or undertaking made by it or to which it or its properties is or are subject, and the Subscriber is authorized and otherwise empowered to purchase and hold the [**title of securities**]; and

m. In the case of a purchase by the Subscriber of [**title of securities**] acting as trustee or as agent for a beneficiary or principal, whether disclosed or undisclosed, the Subscriber is duly authorized to execute and deliver this Agreement on behalf of such beneficiary or principal.

Representations Warranties and Covenants of the Company

The Company represents, warrants, covenants and agrees that:

1. The Company is a Foreign Issuer and reasonably believes that there is no Substantial U.S. Market Interest in the [**title of securities and underlying securities**].

2. The Company is not now and as a result of the sale of the [**title of securities**] contemplated hereby will not be, an "investment company" as defined in the United States Investment Company Act of 1940, as amended.

3. Except with respect to offers and sales made to implement the U.S. Private Placement, neither the Company nor any of its affiliates, nor any person acting on their behalf, has made or will make: (i) any offer to sell or any solicitation of an offer to buy any of the [**title of securities**] to any person located in the United States, or (ii) any sale of [**title of securities**] unless, at the time the buy order was or will have been originated, the purchaser was outside the United States or the Company, its affiliates and any person acting on their behalf reasonably believe that the purchaser was outside the United States.

4. During the period in which the [**title of securities and underlying securities**] are offered for sale, neither the Company nor any of its affiliates nor any person acting on their behalf has made or will make any Directed Selling Efforts in the United States or has taken or will take any action that would cause the exemption afforded by Regulation S under the U.S. Securities Act to be unavailable for offers and sales of the [**title of securities**] outside of the United States.

5. Neither the Company, its affiliates nor any person acting on their behalf has engaged or will engage in any form of general solicitation or general advertising (as those terms are used in Regulation D) with respect to offers or sales of the [**title of securities**] in the United States, including advertisements, articles, notices or other communications published in any newspaper, magazine or similar media or broadcast over radio or television or any seminar or meeting whose attendees had been invited by general solicitation or general advertising, in connection with the offer or sale of the [**title of securities**] in the United States or has taken or will take any action that would cause the exemption afforded by Section 4(2) of the U.S. Securities Act to be unavailable for offers and sales of the [**title of securities**] in the United States pursuant to the terms of this Agreement.