

## NATIONAL POLICY STATEMENT 45

### MULTIJURISDICTIONAL DISCLOSURE SYSTEM

#### 1. Introduction

The multijurisdictional disclosure system is a joint initiative by the Canadian Securities Administrators and the Securities and Exchange Commission of the United States (the "SEC") to reduce duplicative regulation in cross-border offerings, issuer bids, take-over bids, business combinations and continuous disclosure and other filings.

The multijurisdictional disclosure system implemented in Canada pursuant to this Policy Statement (the "MJDS") is intended to remove unnecessary obstacles to certain offerings of securities of U.S. issuers in Canada and to facilitate take-over and issuer bids and business combinations involving securities of U.S. issuers having less than a specified percentage of Canadian security holders, while ensuring that Canadian investors remain adequately protected.

The MJDS permits public offerings of securities of U.S. issuers that meet specified eligibility requirements to be made in Canada on the basis of disclosure documents prepared in accordance with the laws of the United States (with certain additional Canadian disclosure). A public offering of securities of a U.S. issuer may be made under the MJDS both in Canada and the United States or in Canada only.

The MJDS also reduces disincentives to the extension to Canadian security holders of rights offerings by U.S. issuers by permitting such rights offerings to be made in Canada on the basis of U.S. disclosure documents. Similarly, it facilitates the extension to Canadian security holders of U.S. issuers of take-over bids, issuer bids and business combinations in the circumstances contemplated by this Policy Statement.

The MJDS permits such transactions to be made in Canada generally in the same manner as in the United States and on the basis of U.S. disclosure documents.

Regulatory review of disclosure documents used under the MJDS for offerings made by a U.S. issuer both in Canada and the United States will be that customary in the United States, with the SEC being responsible for carrying out the review. Canadian securities regulatory authorities will monitor materials filed under the MJDS in order to check compliance with the specific disclosure and filing requirements of this Policy Statement. In addition, the substance of the disclosure documents will be reviewed in the unusual case where, through monitoring of the materials or otherwise, the Canadian securities regulatory authorities have reason to believe that there may be a problem with a transaction or the related disclosure or other special circumstances exist.

The MJDS does not change the liability provisions of the securities laws of any province or territory or the discretionary authority of a Canadian securities regulatory authority to halt a distribution, remove an exemption, cease trade the related securities, or refuse to issue a receipt

for a preliminary prospectus or prospectus. The Canadian securities regulatory authorities also will continue to exercise their public interest jurisdiction in specific cases where they determine that it is necessary to do so in order to preserve the integrity of the Canadian capital markets.

Use of the MJDS is based on compliance with U.S. law. Thus, any person or company doing a transaction or filing a document in Canada under the MJDS must comply in full with all applicable U.S. requirements. However, violation of a U.S. requirement will not automatically disqualify a person or company from using the MJDS with respect to a transaction or document. Instead, a person or company that violates a U.S. requirement may, depending upon the circumstances, be considered to have violated an equivalent requirement of a Canadian jurisdiction with respect to the transaction or document.

Concurrently with the adoption of this Policy Statement, the SEC is adopting rules, forms and schedules for the implementation of a similar multijurisdictional disclosure system in the United States. The U.S. system removes unnecessary impediments to certain offerings of securities of Canadian issuers in the United States and facilitates the extension to U.S. security holders of Canadian issuers of take-over bids, issuer bids and business combinations in the circumstances contemplated by the U.S. system.

The procedures to be followed in Canada when the U.S. system is used for a U.S.-only offering of securities of a Canadian issuer are set out in Section 7.

## 2. Definitions

As used in this Policy Statement, unless the subject matter or context otherwise requires, the following terms shall have the following meanings:

- (1) "affiliate", with respect to an issuer, means a person or company that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the issuer;
- (2) "applicable Canadian securities legislation" means the securities legislation of each Canadian province and territory in which securities are offered, or a bid is made, under this Policy Statement;
- (3) "applicable securities regulatory authority" means the securities regulatory authority in each Canadian province and territory in which securities are offered, or a bid is made, under this Policy Statement;
- (4) "Approved Rating", with respect to debt or preferred shares, means a provisional rating by an Approved Rating Organization in one of the categories applicable thereto, as set out below opposite the Approved Rating Organization's name:

Approved Rating Organization	Debt	Preferred Shares
C.B.R.S. Inc.	A++, A+, A or B++	P-1+, P-1, P-2 or P-3

Dominion Bond Rating Service Limited	AAA, AA, A or BBB	Pfd-1, Pfd-2 or Pfd-3
Moody's Investors Service, Inc.	Aaa, Aa, A or Baa	"aaa", "aa", "a" or "baa"
Standard & Poor's Corporation	AAA, AA, A or BBB	AAA, AA, A or BBB

An Approved Rating for an Approved Rating Organization that is not listed above shall be a rating by such organization in one of its generic rating categories that signifies investment grade. Typically, the four highest rating categories (within which there may be subcategories or gradations indicating relative standing) signify investment grade by an Approved Rating Organization;

- (5) "Approved Rating Organization" means each of C.B.R.S. Inc., Dominion Bond Rating Service Limited, Moody's Investors Service, Inc. and Standard & Poor's Corporation;
- (6) "bid" means a take-over bid or an issuer bid;
- (7) "bid circular", in respect of the application of this Policy Statement in a province or territory, means a take-over bid circular or an issuer bid circular as those terms are used in the securities legislation of such province or territory, consisting, for purposes of this Policy Statement, of the tender offer materials used in the United States, as modified pursuant to Section 4.5;
- (8) "business combination" means a statutory merger or consolidation or similar plan or acquisition requiring the vote or consent of security holders of a company or person, in which securities of such company or person or another company or person held by such security holders will become or be exchanged for securities of any other company or person;
- (9) "Canadian GAAP" means the accounting principles generally accepted in Canada, and, where a principle is recommended in the Handbook of the Canadian Institute of Chartered Accountants which is applicable in the circumstances, means such principle;
- (10) "commodity pool issuer" means an issuer formed and operated for the purpose of investing in commodity futures contracts, commodity futures and/or related products;

- (11) "company", in respect of the application of this Policy Statement in a province or territory, has the meaning assigned thereto in the securities legislation of such province or territory;
- (12) "Conflicts Rules" has the meaning assigned thereto in Section 3.12;
- (13) "connected issuer" or "connected party", in respect of the application of this Policy Statement in a province or territory, has the meaning assigned thereto in the Conflicts Rules of such province or territory;
- (14) "control", with respect to an issuer, means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the issuer, whether through the ownership of voting securities, by contract or otherwise, and "under common control with" shall be construed accordingly;
- (15) "convertible", with respect to debt or preferred shares, means that the rights and attributes attaching to such securities include a right or option to purchase, convert or exchange or otherwise acquire any equity shares of the issuer or of any other issuer (or any debt or preferred shares not having an Approved Rating in the case of debt or preferred shares having an Approved Rating), or any other security which itself has a right to purchase, convert or exchange or otherwise acquire any equity shares of the issuer or any other issuer (or any debt or preferred shares not having an Approved Rating in the case of debt or preferred shares having an Approved Rating), "convert" shall be construed accordingly, and "nonconvertible" means securities that are not convertible;
- (16) "equity shares", with respect to an issuer, means common shares, non-voting equity shares and subordinate or restricted voting equity shares of the issuer, but excludes preferred shares;
- (17) "foreign issuer" means an issuer that is not incorporated or organized under the laws of Canada or a province or territory of Canada, except where:
  - (a) voting securities carrying more than 50% of the votes for the election of directors are held by persons or companies whose last address as shown on the books of the issuer is in Canada; and
  - (b) either:
    - (i) the majority of the senior officers or directors of the issuer are citizens or residents of Canada;
    - (ii) more than 50% of the assets of the issuer are located in Canada; or
    - (iii) the business of the issuer is administered principally in Canada;

- (18) "independent underwriter", in respect of the application of this Policy Statement in a province or territory, means a dealer that is not the issuer and in respect of which the issuer is not a related party or related issuer or connected party or connected issuer or, where the dealer is not a registrant in such province or territory, would not be a connected party or connected issuer if the dealer were a registrant;
- (19) "insider bid", in respect of the application of this Policy Statement in a province or territory, has the meaning assigned thereto in the securities legislation of such province or territory;
- (20) "International Accounting Standards" means the accounting principles issued by the International Accounting Standards Committee;
- (21) "issuer", in respect of the application of this Policy Statement in a province or territory, has the meaning assigned thereto in the securities legislation of such province or territory;
- (22) "issuer bid", in respect of the application of this Policy Statement in a province or territory, has the meaning assigned thereto in the securities legislation of such province or territory;
- (23) "majority-owned subsidiary" means a person or company of which voting securities carrying more than 50% of the votes for the election of directors are held by (i) another person or company and (ii) the other majority-owned subsidiaries of that other person or company;
- (24) "Method 1" means the first of the two alternative methods of providing prospectus certificates for Rule 415 Offerings made under the MJDS described in Section 3.11(2);
- (25) "Method 2" means the second of the two alternative methods of providing prospectus certificates for Rule 415 Offerings made under the MJDS described in Section 3.11(2);
- (26) "MJDS" means the multijurisdictional disclosure system rules and procedures set forth in Sections 1-6 of this Policy Statement;
- (27) "MTN Program" means a continuous Rule 415 Offering of debt in which the specific variable terms of the individual securities and the offering thereof are determined at the time of sale;
- (28) "Nasdaq" means the Nasdaq Stock Market;
- (29) "NNM" means the Nasdaq National Market;

- (30) "offeree issuer" means an issuer whose securities are the subject of a bid;
- (31) "offeror", in respect of the application of this Policy Statement in a province or territory, has the meaning assigned thereto in the securities legislation of such province or territory;
- (32) "parent", with respect to a majority-owned subsidiary, means a person or company that, together with the parent's other majority-owned subsidiaries, holds voting securities of the majority-owned subsidiary carrying more than 50% of the votes for the election of directors;
- (33) "person", in respect of the application of this Policy Statement in a province or territory, has the meaning assigned thereto in the securities legislation of such province or territory;
- (34) "principal market", with respect to a class of securities, means the single securities market with the largest aggregate trading volume for the class of securities in the preceding 12 calendar month period;
- (35) "principal jurisdiction" means the principal jurisdiction selected in accordance with Section 3.8(2);
- (36) "public float", with respect to a class of securities, means the aggregate market value of such securities held by persons or companies that are not affiliates of the issuer of such securities, calculated by using the price at which such securities were last sold in the principal market for such securities on the date specified in the applicable provision of this Policy Statement, or the average of the bid and asked prices of such securities in such market on such date if there were no sales on such date, and where there is no market for such class of securities, it means the book value of such securities held by persons or companies that are not affiliates of the issuer of such securities computed on such date, provided that if the issuer of such class of securities is in bankruptcy or receivership or has an accumulated capital deficit, it means one-third of the principal amount, par value or stated value of such securities held by persons or companies that are not affiliates of the issuer of such securities;
- (37) "related issuer" or "related party", in respect of the application of this Policy Statement in a province or territory, has the meaning assigned thereto in the Conflicts Rules of such province or territory;
- (38) "review jurisdiction" means the review jurisdiction selected in accordance with Section 7;
- (39) "Rule 415 Offering" means an offering under Rule 415 under the 1933 Act that is made in Canada pursuant to Section 3.7;

- (40) "Rule 430A Offering" means an offering under Rule 430A under the 1933 Act that is made in Canada pursuant to Section 3.7;
- (41) "Rule 430A Pricing Prospectus" means a prospectus prepared in connection with a Rule 430A Offering that contains the information omitted from the related registration statement as permitted by Rule 430A under the 1933 Act;
- (42) "SEC" means the Securities and Exchange Commission of the United States;
- (43) "securities exchange bid" means a bid for which the consideration for the securities of the offeree issuer consists, in whole or in part, of securities of an offeror or other issuer;
- (44) "securities legislation" in respect of the application of this Policy Statement in a province or territory, means the statutes concerning the regulation of securities markets and trading in securities of such province or territory, the regulations and blanket rulings and orders thereunder, and the policy statements and written interpretations issued by the securities regulatory authority of such province or territory;
- (45) "take-over bid", in respect of the application of this Policy Statement in a province or territory, has the meaning assigned thereto in the securities legislation of such province or territory;
- (46) "U.S. issuer" means a foreign issuer that is incorporated or organized under the laws of the United States or any state or territory of the United States or the District of Columbia;
- (47) "voting securities" means securities the holders of which have a present entitlement to vote for the election of directors;
- (48) "1933 Act" means the Securities Act of 1933 of the United States;
- (49) "1934 Act" means the Securities Exchange Act of 1934 of the United States; and
- (50) "1940 Act" means the Investment Company Act of 1940 of the United States.

### 3. Prospectus Offerings by U.S. Issuers

#### 3.1 General

The MJDS permits the following types of securities of a U.S. issuer to be distributed by prospectus in Canada, either by the issuer or by a selling security holder, on the basis of documentation prepared in accordance with U.S. requirements (with certain additional Canadian disclosure):

- (1) non-convertible debt and non-convertible preferred shares that have an Approved Rating;
- (2) debt and preferred shares that have an Approved Rating and may not be converted for at least one year after issuance, if the issuer meets a substantiality requirement;
- (3) other securities, if the issuer meets a greater substantiality requirement; and
- (4) certain rights to acquire securities of the issuer.

The availability of the MJDS for rights offerings is discussed in Section 3.4(1), for securities exchange bids in Section 4.1 and for business combinations in Section 5.1.

The purpose of the "substantiality" requirement is to single out issuers whose size is such that (i) information about them is publicly disseminated and (ii) they have a significant market following. As a result, the marketplace can be expected to set efficiently a price for the securities of these issuers based on publicly available information.

Non-convertible debt and preferred shares that have an Approved Rating are particularly appropriate for the MJDS because these securities trade primarily on the basis of their yield and an assessment of creditworthiness by an independent rating organization. The lack of a "substantiality" requirement for offerings of these securities reflects this and allows the MJDS to be used by issuers of securities having an Approved Rating, such as finance subsidiaries, that access that market frequently, but do not meet the public float requirements. Debt and preferred shares that have an Approved Rating and are not convertible into other securities for at least one year after issuance can be expected to trade primarily on the basis of their yield and independent rating, but are also priced to some extent on the basis of the anticipated value of the security into which they are convertible. Thus, the MJDS is available for these securities on the basis of their Approved Rating, coupled with a "substantiality" requirement.

In the case of offerings of common shares or other securities other than non-convertible debt and preferred shares that have an Approved Rating, the MJDS is available upon satisfaction of a greater "substantiality" requirement.

The MJDS may not be used for offerings of derivative securities, except warrants, options, rights or convertible securities where the issuer of the underlying securities to which the warrants, options, rights or convertible securities relate is eligible under this Policy Statement to distribute the underlying securities. Therefore, offerings of derivative securities such as stock index warrants, currency warrants and debt the interest on which is based upon the performance of a stock index may not be made under the MJDS.

All prospectus offerings remain subject to the fundamental principle that transactions must not be prejudicial to the public interest. The applicable securities regulatory



authorities will continue to exercise their public interest jurisdiction in specific cases where they determine that it is necessary to do so in order to preserve the integrity of the Canadian capital markets.

### 3.2 Offerings of Debt or Preferred Shares Having an Approved Rating

The MJDS may be used for the distribution in Canada of debt that has an Approved Rating or preferred shares that have an Approved Rating or rights that, upon issuance, are immediately exercisable for any such securities, provided that:

- (1) the issuer is a U.S. issuer;
- (2) the issuer (i) has a class of securities registered pursuant to section 12(b) or 12(g) of the 1934 Act; or (ii) is required to file reports pursuant to section 15(d) of the 1934 Act;
- (3) the issuer has filed with the SEC all the material required to be filed pursuant to sections 13, 14 and 15(d) of the 1934 Act for a period of 12 calendar months immediately preceding the filing of the preliminary prospectus with the principal jurisdiction;
- (4) the issuer is not registered or required to be registered as an investment company under the 1940 Act;
- (5) the issuer is not a commodity pool issuer; and
- (6) the securities being offered or issuable upon the exercise of the rights either:
  - (a) are not convertible; or
  - (b) if convertible, may not be converted for at least one year after issuance, and the equity shares of the issuer of the securities into which the offered securities are convertible have a public float of not less than U.S. \$75,000,000, determined as of a date that is within 60 days prior to the filing of the preliminary prospectus with the principal jurisdiction.

For purposes of this Section 3, whether debt or preferred shares have an Approved Rating shall be determined as of the time the preliminary prospectus is filed in the principal jurisdiction.

### 3.3 Offerings of Other Securities

The MJDS may be used for the distribution in Canada of any securities of an issuer, provided that:

- (1) the issuer meets the eligibility requirements specified in Sections 3.2(1)-(5); and
- (2) the equity shares of the issuer have a public float of not less than U.S. \$75,000,000 determined as of a date that is within 60 days prior to the filing of the preliminary prospectus with the principal jurisdiction.

Offerings of debt and preferred shares that are not eligible to be made pursuant to Section 3.2, rights offerings that are not eligible to be made pursuant to Section 3.4, securities exchange bids that are not eligible to be made pursuant to Section 4.2 and business combinations that are not eligible to be made pursuant to Section 5.2 may be made pursuant to this Section 3.3, provided that (1) and (2) above are satisfied.

### 3.4 Rights Offerings

#### (1) General

Subject to certain limitations, the MJDS permits U.S. issuers to make rights offerings by prospectus to existing security holders in Canada on the basis of documentation prepared in accordance with U.S. requirements (with certain additional Canadian disclosure). There is no market value or public float requirement for rights offerings since existing security holders can reasonably be expected to be familiar with the issuer and follow publicly available information concerning it.

The MJDS is available for rights offerings primarily to encourage fair treatment of Canadian investors. Previously, a U.S. issuer might not have extended rights offerings to its security holders in Canada due to the perceived costs and burdens of meeting Canadian regulatory requirements. The MJDS is intended to alter a U.S. issuer's cost-benefit analysis in favour of extending a rights offering to Canadian investors.

#### (2) Issuer Eligibility Requirements

The MJDS may be used for the distribution by an issuer of rights to purchase additional securities of its own issue to its existing security holders in Canada, provided that the issuer:

- (a) meets the eligibility requirements specified in Sections 3.2(1), (2), (4) and (5);
- (b) the issuer has filed with the SEC all the material required to be filed pursuant to sections 13, 14 and 15(d) of the 1934 Act for a

period of 36 calendar months immediately preceding the filing of the preliminary prospectus with the principal jurisdiction; and

- (c) has had a class of its securities listed on the New York Stock Exchange or the American Stock Exchange or quoted on the NNM for a period of at least 12 calendar months immediately preceding the filing of the preliminary prospectus with the principal jurisdiction and is in compliance with the obligations arising from such listing or quotation.

(3) Limitations on Rights Offerings

Rights offerings by issuers relying on the eligibility requirements of Section 3.4(2) shall be subject to the following limitations:

- (a) the rights must be exercisable immediately upon issuance;
- (b) subject to (c) below, the rights issued to residents of Canada have the same terms and conditions as the rights issued to residents of the United States; and
- (c) beneficial ownership of rights issued to a resident of Canada may not be transferable to a resident of Canada (other than residents to whom rights of the same issue were granted), provided that (i) the securities issuable upon exercise of the rights may be so transferable, and (ii) this limitation shall not restrict the transfer of rights on a securities exchange or inter-dealer quotation system outside of Canada.

(4) Dealer Registration Requirements

Registration as a dealer is not required by an issuer in respect of a rights offering made under Section 3.4. A standby underwriter or dealer manager for a rights offering made under Section 3.4 is not required to register as a dealer if it does not engage in soliciting activity in Canada or resell in Canada any securities acquired under the standby underwriting arrangement.

3.5 Successor Issuers

A successor issuer subsisting after a business combination shall be deemed to meet the respective eligibility requirements set forth in Sections 3.2(3), 3.4(2)(c), 4.4(3) and 5.2(3) if:

- (1) since the business combination the successor issuer has filed all the material required to be filed pursuant to sections 13, 14 and 15(d) of the 1934 Act and, if applicable, has had a class of its securities listed on the New York Stock Exchange or the American Stock Exchange or quoted on NASDAQ NMS;

- (2) if applicable, the successor issuer is in compliance with the obligations arising from such listing or quotation; and
- (3) the filing, listing or quotation requirement to be satisfied for a period of 12 or 36 months is satisfied in respect of each predecessor by separately adding the period during which the successor issuer satisfied the requirement to the immediately preceding period during which the predecessor satisfied the requirement, provided that the 12 or 36-month requirement need not be satisfied with respect to any predecessors whose assets and gross revenues in aggregate contributed less than 20% of the total assets and gross revenues from continuing operations of the successor issuer, based on a pro forma combination of each predecessor's financial position and results of operations for its most recently completed fiscal year ended prior to the business combination for which financial statements have been filed.

### 3.6 Alternative Eligibility Requirements for Certain Guaranteed Issues

An issuer that does not meet the eligibility requirements set forth in Section 3.2 or 3.3 may use the MJDS to offer the securities respectively specified in such Sections, subject to the following requirements and limitations:

- (1) the securities being offered are:
  - (a) non-convertible debt having an Approved Rating or non-convertible preferred shares having an Approved Rating of a majority-owned subsidiary whose parent meets the eligibility requirements set forth in Sections 3.2(1)-(5);
  - (b) debt having an Approved Rating or preferred shares having an Approved Rating of a majority-owned subsidiary that may not be converted for at least one year after issuance and are convertible only into securities of a parent that meets the eligibility requirements set forth in Sections 3.2(1)-(5) and (6)(b);
  - (c) non-convertible debt or non-convertible preferred shares of a majority-owned subsidiary whose parent meets the eligibility requirements set forth in Section 3.3; or
  - (d) debt or preferred shares of a majority-owned subsidiary that are convertible only into securities of a parent that meets the eligibility requirements set forth in Section 3.3;
- (2) the issuer meets the eligibility requirements set forth in Sections 3.2(1), (4) and (5); and

- (3) the parent fully and unconditionally guarantees payment in respect of the securities being offered as to principal and interest if such securities are debt and as to liquidation preference, redemption and dividends if such securities are preferred shares.

### 3.7 Rule 415 Offerings and Rule 430A Offerings

The procedures permitted by Rule 415 and Rule 430A under the 1933 Act may be used for offerings of securities under the MJDS. The shelf procedures and post-receipt pricing rules set forth in National Policy Statement No. 44 do not apply to such offerings. A prospectus supplement filed in accordance with the procedures permitted by Rule 415 or Rule 430A shall not be subject to the review procedures set out in Section 3.8(3) or the receipt procedures set out in Section 3.8(4).

### 3.8 Mechanics of Making an Offering

#### (1) General

In order to use the MJDS to distribute securities in Canada, an issuer that meets the relevant eligibility requirements set forth in this Policy Statement shall prepare a registration statement for the offering for filing with the SEC, the related preliminary prospectus and prospectus for use in Canada and any amendments and supplements thereto in accordance with U.S. disclosure requirements as interpreted and applied by the SEC. The preliminary prospectus and prospectus used in Canada shall contain the additional information, legends and certificates required by this Policy Statement, shall provide full, true and plain disclosure of all material facts relating to the securities proposed to be distributed, and shall contain no untrue statement of a material fact or omit to state a material fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made. The issuer may use either a separate Canadian prospectus or a wrap-around prospectus that includes the prospectus filed with the SEC. The issuer is required to prepare a preliminary prospectus for use in Canada even if the issuer does not prepare a preliminary prospectus for use in the United States.

Notwithstanding the foregoing, a preliminary prospectus, prospectus or amendment or supplement thereto used in Canada need not contain any disclosure relevant solely to U.S. offerees or purchasers, including, without limitation: (i) any "red herring" legend required by U.S. law; (ii) any legend regarding approval or disapproval by the SEC; (iii) any discussion of U.S. tax considerations other than those material to Canadian purchasers; and (iv) the names of any U.S. underwriters not acting as underwriters in Canada or a description of the U.S. plan of distribution (except to the extent necessary to describe facts material to the Canadian offering). Except as specifically provided in this Policy Statement, such documents are not required to comply with the form and content requirements set forth in applicable Canadian securities legislation.

If the offering is also being made in the United States, one unsigned copy of the registration statement and all amendments and exhibits thereto and one signed and two unsigned copies of the preliminary prospectus, prospectus and each amendment and supplement thereto used in Canada (together with one copy of all documents incorporated by reference in the prospectus and the supporting documentation required by this Policy Statement) shall be filed in the manner set forth in this Policy Statement with the securities regulatory authority in the principal jurisdiction as nearly as practicable contemporaneously with the filing of the registration statement with the SEC. One signed and one unsigned copy of the preliminary prospectus, prospectus and each amendment and supplement thereto used in Canada (together with one copy of all documents incorporated by reference in the prospectus and the supporting documentation required by this Policy Statement) shall be filed with the other applicable securities regulatory authorities. Such filings shall be made as nearly as practicable contemporaneously with the filing in the principal jurisdiction.

For filings made in Quebec, both English and French language versions of the preliminary prospectus, prospectus and each amendment and supplement thereto shall be filed in the requisite numbers. French language versions of the documents incorporated by reference into any of those documents shall be filed in Quebec not later than the time the incorporating document is filed. Thus, French language versions of continuous disclosure documents need not be filed until incorporated by reference. In addition, information contained in a Form 10-K or Form 10-Q prescribed under the 1934 Act that is not required to be disclosed under Quebec requirements applicable to offerings not made under the MJDS need not be included in the French language versions of those documents. Notwithstanding the foregoing, French language versions of the disclosure documents are not required to be filed for rights offerings made pursuant to Section 3.4, unless (i) the issuer is a reporting issuer in Quebec other than solely as a result of rights offerings made pursuant to Section 3.4, or (ii) 20% or more of the class of securities in respect of which the rights are issued is held by persons or companies whose last address as shown on the books of the issuer is in Canada.

If the offering is being made solely in Canada, the preliminary prospectus, prospectus and each amendment and supplement thereto shall be prepared as if the offering were also being made in the United States. The issuer need not prepare or file the cover page of the U.S. registration statement and other information required in the U.S. registration statement, but not required in the U.S. prospectus.

Representations that securities offered under the MJDS will be listed on a stock exchange or that application has been or will be made to list such securities upon a stock exchange may be made in connection with offerings made under the MJDS.

The provisions of applicable Canadian securities legislation relating to the advertising of securities or the making of representations or undertakings in respect of offerings of securities, including, without limitation, the distribution of material to potential investors and the provision of information to the press prior to the issuance of a receipt for the prospectus, shall apply to offerings made under the MJDS.

Solicitations of expressions of interest with respect to an issue of securities to be qualified for distribution under the MJDS may be made prior to the filing of a preliminary prospectus under the following conditions:

- (a) the issuer has entered into an enforceable agreement with an underwriter whereby the underwriter has agreed to purchase the securities and which agreement has fixed the terms of the issue and requires the issuer to file with the principal jurisdiction, and obtain a receipt from it for, the preliminary prospectus within two business days from the date that the agreement is entered into by the parties thereto and to file with the other applicable securities regulatory authorities, and obtain a receipt from them for, the preliminary prospectus within three business days from the date that the agreement is entered into by the parties thereto;
- (b) once a receipt for the preliminary prospectus has been obtained, a copy of the preliminary prospectus is forthwith forwarded to any person who has expressed an interest in acquiring the securities;
- (c) no contract of purchase and sale with respect to the securities is entered into until such time as the prospectus with respect to such securities has been filed and a receipt obtained for it; and
- (d) neither the underwriter nor the issuer has been advised in writing by an applicable securities regulatory authority that such issuer or underwriter is not entitled to rely on this sentence.

(2) Selection of Principal Jurisdiction

At the time of filing a preliminary prospectus under the MJDS, the issuer shall select a principal jurisdiction in Canada and advise the applicable securities regulatory authorities and, unless the offering is being made in Canada only, the SEC of its selection and that the offering is being made under the MJDS. The jurisdiction so selected may or may not agree to act in such capacity. If a jurisdiction does not agree to act, the issuer shall select another jurisdiction as principal jurisdiction. As of the date of this Policy Statement, the securities regulatory authorities of New Brunswick, Prince Edward Island, Newfoundland, Yukon Territory and the Northwest Territories have indicated that they will not

agree to act as principal jurisdiction in connection with offerings made under the MJDS.

(3) Review Procedures

Disclosure documents filed for an MJDS offering will be subject to SEC review procedures if the offering is being made both in Canada and the United States. Whether the offering is made both in Canada and the United States or solely in Canada, the applicable securities regulatory authorities will monitor materials filed under the MJDS in order to check compliance with the specific disclosure and filing requirements of this Policy Statement. In addition, the substance of the disclosure documents will be reviewed in the unusual case where, through monitoring of the materials or otherwise, the applicable securities regulatory authorities have reason to believe that there may be a problem with a transaction or the related disclosure or other special circumstances exist.

If the SEC notifies an issuer that a filing made under the MJDS has been selected for review, the issuer shall so notify the principal jurisdiction.

(4) Receipt Procedures

The receipt for a preliminary prospectus filed under the MJDS will be issued by each applicable securities regulatory authority when the preliminary prospectus and all required supporting documentation have been filed with it in the manner required by this Policy Statement.

Where the offering also is being made in the United States, the receipt for a prospectus filed under the MJDS will be issued by each applicable securities regulatory authority, unless it has reason to believe that there may be a problem with the transaction or the related disclosure or other special circumstances exist, upon the following conditions having been satisfied:

- (a) in the case of the principal jurisdiction, the related registration statement has been declared effective by the SEC, as certified by the issuer in writing (which may be in facsimile form);
- (b) in the case of the other Canadian provinces and territories, the principal jurisdiction has notified such securities regulatory authority that the principal jurisdiction has issued a receipt for the prospectus; and
- (c) the prospectus, all documents incorporated therein by reference and all supporting documentation required by this Policy Statement have been filed with such securities regulatory authority in the manner required by this Policy Statement.



Where the offering is being made solely in Canada, the receipt for a prospectus filed under the MJDS will be issued by each applicable securities regulatory authority upon the conditions set out in (b) and (c) above having been satisfied, unless it has reason to believe that there may be a problem with the transaction or the related disclosure or other special circumstances exist.

Issuers filing a prospectus under the MJDS may elect to use the National Policy No. 1 Receipt System. Reference should be made to National Policy Statement No. 1 for the procedures, requirements and benefits of that system.

(5) Amendment, Supplement and Incorporation by Reference Procedures

The provisions of applicable Canadian securities legislation that prescribe the circumstances under which a preliminary prospectus or prospectus is required to be amended and the form and content of an amendment shall not apply to offerings made under the MJDS. Instead, disclosure documents filed under the MJDS shall be amended and supplemented in accordance with U.S. securities law, but shall contain the legends, where applicable, and certificates required by this Policy Statement.

Where a registration statement is amended in a manner that modifies the related U.S. prospectus, two copies of the documents containing the modification shall be filed with each applicable securities regulatory authority as nearly as practicable contemporaneously with the filing of the amendment with the SEC. If the receipt for the prospectus has not been issued and the filing has been made as a result of the occurrence of a material adverse change since the last filing, such documents are required to be filed as an amendment to the preliminary prospectus. The issuer shall specify, upon filing, that such documents have been filed as such under applicable Canadian securities legislation. Otherwise such documents will not be considered to be amendments to the preliminary prospectus within the meaning of applicable Canadian securities legislation. Any modifications made to a prospectus by filing a post-effective amendment to the registration statement with the SEC must be made by filing an amendment to the prospectus with the applicable securities regulatory authorities.

An amendment is required to be filed with the applicable securities regulatory authorities in the event of a material adverse change in the additional disclosure contained only in the preliminary prospectus used in Canada or a material change in the additional disclosure contained only in the prospectus used in Canada. A prospectus supplement used in connection with a Rule 415 Offering to modify a U.S. prospectus is required to be filed with the applicable securities regulatory authorities, as set forth below, as nearly as practicable contemporaneously with the filing thereof with the SEC and shall be deemed to be incorporated into the prospectus as of the date thereof, but only for the purpose of the offering of securities covered by the supplement. Such a prospectus supplement will not be

considered to be a prospectus amendment within the meaning of applicable Canadian securities legislation.

Notwithstanding the preceding paragraph, a prospectus supplement is not required to be filed in a province or territory other than the principal jurisdiction if:

- (a) (i) the prospectus supplement is used to describe the terms of a tranche of securities distributed under the prospectus (or is a preliminary form of such supplement for use in marketing), and (ii) the securities covered by the supplement will not be distributed in such province or territory; or
- (b) (i) the prospectus supplement is used to establish an MTN Program or other continuous offering program or to update disclosure for such program, and (ii) securities will not be distributed under such program in such province or territory.

Where (i) a revised prospectus, filed with the SEC other than as an amendment to the related registration statement pursuant to Rule 424(b) under the 1933 Act or otherwise, or (ii) a prospectus supplement is used to modify a prospectus other than a prospectus for a Rule 415 Offering or a Rule 430A Offering, such revised prospectus or prospectus supplement shall be filed with each applicable securities regulatory authority as nearly as practicable contemporaneously with the filing of the revised prospectus or prospectus supplement with the SEC and shall be deemed to be incorporated into the prospectus as of the date thereof. Such revised prospectus or prospectus supplement will not be considered to be a prospectus amendment within the meaning of applicable Canadian securities legislation.

A Rule 430A Pricing Prospectus shall be filed with the applicable securities regulatory authorities as nearly as practicable contemporaneously with the filing of the Rule 430A Pricing Prospectus with the SEC. The information contained in a Rule 430A Pricing Prospectus that was omitted from the prospectus in accordance with Rule 430A under the 1933 Act and any other additional information which the issuer has elected to include therein shall be deemed to be incorporated by reference into the prospectus as of the date of the Rule 430A Pricing Prospectus. A Rule 430A Pricing Prospectus will not be considered to be a prospectus amendment within the meaning of applicable Canadian securities legislation.

Except as otherwise provided in this Policy Statement, documents shall be, and shall be deemed to be, incorporated by reference into each preliminary prospectus or prospectus filed under the MJDS in accordance with U.S. securities law. All documents that are incorporated by reference into a prospectus after issuance of the receipt therefor shall be filed with the applicable securities regulatory

authorities as nearly as practicable contemporaneously with the filing thereof with the SEC.

Any statement contained in a document incorporated by reference into a prospectus shall be deemed to be modified or superseded, for the purposes of the prospectus, to the extent that a statement contained in the prospectus or in any other subsequently filed document that is incorporated by reference into the prospectus modifies or supersedes such statement. The making of such a modifying or superseding statement shall not be deemed an admission for any purposes that the modified or superseded statement, when made, constituted a misrepresentation, an untrue statement of material fact or an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made. Any statement so modified or superseded shall not be deemed in its unmodified or superseded form to constitute part of the prospectus.

(6) Delivery Requirements

Preliminary prospectuses, prospectuses and amendments and supplements thereto filed under the MJDS shall be delivered to offerees and purchasers in accordance with applicable Canadian securities legislation. All prospectus supplements applicable to the securities being purchased shall be attached to, or included with, the prospectus that is delivered to offerees and purchasers of such securities in accordance with applicable Canadian securities legislation. A Rule 430A Pricing Prospectus shall be delivered to offerees and purchasers, in lieu of the related prospectus, in accordance with applicable Canadian securities legislation.

Documents that are incorporated by reference into a preliminary prospectus or a prospectus filed under the MJDS, other than prospectus supplements and Rule 430A Pricing Prospectuses, are not required to be delivered to offerees or purchasers unless they are required to be so delivered under the securities laws of the United States. Such documents, in addition to being filed with applicable securities regulatory authorities as required by this Policy Statement, shall be provided by the issuer without charge to any person upon request.

3.9 Additional Legends and Disclosure

The following are the texts of certain additional legends and disclosure required to be included in a preliminary prospectus and/or prospectus used in Canada under the MJDS.

- (1) There shall be printed in red ink on the outside front cover page (or on a sticker thereto) of each preliminary prospectus the following statement:

"This is a preliminary prospectus relating to these securities, a copy of which has been filed with the securities commission or similar authority in [insert the names of the provinces and

territories where filed], but which has not yet become final for the purpose of a distribution to the public. Information contained herein is subject to completion or amendment. These securities may not be sold to, nor may offers to buy be accepted from, residents of such jurisdictions prior to the time a receipt is obtained for the final prospectus from the appropriate securities regulatory authority."

- (2) There shall be printed on the outside or inside front cover page (or on a sticker thereto) of each preliminary prospectus and prospectus the following statements:
- (a) "This offering is being made by a U.S. issuer pursuant to disclosure documents prepared in accordance with U.S. securities laws. Purchasers should be aware that these requirements may differ from those of [insert the names of the provinces and territories where qualified]. The financial statements included or incorporated by reference in this prospectus have not been prepared in accordance with Canadian generally accepted accounting principles and thus may not be comparable to financial statements of Canadian issuers."
  - (b) "[All of] [Certain of] the directors and officers of the issuer and [all of] [certain of] the experts named herein reside outside of Canada. [[Substantially] all of the assets of these persons and of the issuer may be located outside of Canada.] The issuer has appointed [name and address of agent for service] as its agent for service of process in Canada, but it may not be possible for investors to effect service of process within Canada upon the directors, officers and experts referred to above. It may also not be possible to enforce against the issuer, its directors and officers and [certain of] the experts named herein judgments obtained in Canadian courts predicated upon the civil liability provisions of applicable securities laws in Canada."
  - (c) "This prospectus constitutes a public offering of these securities only in those jurisdictions where they may be lawfully offered for sale and therein only by persons permitted to sell such securities. No securities commission or similar authority in Canada or the United States has in any way passed upon the merits of the securities offered hereunder and any representation to the contrary is an offence."

(3) If documents are incorporated by reference in a preliminary prospectus or prospectus, the portion of the preliminary prospectus or prospectus which provides information about incorporation by reference shall include a statement that such documents have been filed with securities commissions or similar authorities in each jurisdiction in Canada in which the offering is being made and shall provide the name, address and telephone number of an officer of the issuer from whom copies of such documents may be obtained on request without charge.

(4) The following shall be included in each preliminary prospectus and prospectus:

"Securities legislation in certain of the provinces and territories of Canada provides purchasers with the right to withdraw from an agreement to purchase securities within two business days after receipt or deemed receipt of a prospectus or any amendment. In several provinces and territories of Canada, securities legislation further provides a purchaser with rights of rescission or, in some jurisdictions, damages where the prospectus or any amendment contains a misrepresentation or is not delivered to the purchaser, provided that such remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the province or territory. Purchasers should refer to the applicable provisions of the securities legislation of their province or territory for particulars of these rights or consult with a lawyer. Rights and remedies also may be available to purchasers under U.S. law; purchasers may wish to consult with a U.S. lawyer for particulars of these rights."

(5) An underwriter of the Canadian offering named in the preliminary prospectus or prospectus remains subject to any obligation under applicable Canadian securities legislation to disclose the names of persons or companies having an interest in its capital.

### 3..10 Reconciliation of Financial Statements

An issuer offering securities pursuant to Section 3.3 shall provide a reconciliation to Canadian GAAP or to International Accounting Standards of the financial statements contained in or incorporated by reference in the preliminary prospectus or prospectus in the notes to such financial statements or as a supplement included or incorporated by reference in the preliminary prospectus and prospectus. The reconciliation shall explain and quantify as a separate reconciling item any

significant differences between the principles applied in the financial statements (including note disclosure) and Canadian GAAP or International Accounting Standards, as the case may be, and, in the case of the annual financial statements, shall be covered by an auditor's report.

Reconciliation of financial statements to Canadian GAAP or International Accounting Standards is not required for other offerings made under the MJDS.

### 3.11 Certificates

#### (1) General

Except as otherwise provided for Rule 415 Offerings and Rule 430A Offerings, each preliminary prospectus and prospectus used for an offering under the MJDS shall contain the following issuer's certificate:

"The foregoing, together with the documents incorporated herein by reference, constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by [insert applicable references] [insert if offering made in Quebec -- "and does not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]."

Where there is an underwriter, except as otherwise provided for Rule 415 Offerings and Rule 430A Offerings, each preliminary prospectus and prospectus used for an offering under the MJDS shall contain the following underwriters' certificate signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus, are in a contractual relationship with the issuer or a selling security holder:

"To the best of our knowledge, information and belief, the foregoing, together with the documents incorporated herein by reference, constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by [insert applicable references] [insert if offering made in Quebec -- "and does not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

#### (2) Rule 415 Offerings

In Rule 415 Offerings, issuers and underwriters may choose between two alternative methods of providing certificates. Either method can be substituted for the other until the filing of the prospectus. The method chosen for the provision of the issuer's and underwriters' certificates need not be the same.

Method 1 allows the use of prospectus supplements and, in the case of MTN Programs, pricing supplements (i.e., supplements setting the price and certain variable terms of the securities rather than establishing the program) that do not contain certificates, provided that a "forwardlooking" certificate has been included in the prospectus or in the supplement establishing the program.

Method 2 requires the inclusion of certificates in each prospectus supplement and pricing supplement filed under the MJDS, provided that no certificate is required to be included in a prospectus supplement filed with the securities regulatory authority in the principal jurisdiction if the securities covered by such prospectus supplement are not offered in Canada.

The text of the certificates for Rule 415 Offerings is set forth in Appendix "A".

(3) Rule 430A Offerings

(a) Issuer's Certificate

Each (i) preliminary prospectus and prospectus filed with the applicable securities regulatory authorities for a Rule 430A Offering, (ii) each amendment to a preliminary prospectus filed with the applicable securities regulatory authorities for a Rule 430A Offering, (iii) each amended prospectus filed with the applicable securities regulatory authorities to commence a new period for filing a Rule 430A Pricing Prospectus, and (iv) each amendment to a prospectus filed with the applicable securities regulatory authorities for a Rule 430A Offering before the information omitted from the prospectus has been filed in either a Rule 430A Pricing Prospectus or an amendment shall contain the following issuer's certificate:

"The foregoing, together with the documents incorporated herein by reference and the information deemed to be incorporated herein by reference, as of the date of the prospectus providing the information permitted to be omitted from this prospectus, will constitute full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by [insert applicable references] [insert if offering made in Quebec -- "and will not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

(b) Underwriters' Certificate

Where there is an underwriter, each (i) preliminary prospectus and prospectus filed with the applicable securities regulatory authorities for a Rule 430A Offering, (ii) each amendment to a preliminary prospectus filed with the applicable securities regulatory authorities for a Rule 430A

Offering, (iii) each amended prospectus filed with the applicable securities regulatory authorities to commence a new period for filing a Rule 430A Pricing Prospectus, and (iv) each amendment to a prospectus filed with the applicable securities regulatory authorities for a Rule 430A Offering before the information omitted from the prospectus has been filed in either a Rule 430A Pricing Prospectus or an amendment shall contain the following underwriters' certificate signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus, are in a contractual relationship with the issuer or a selling security holder:

"To the best of our knowledge, information and belief, the foregoing, together with the documents incorporated herein by reference and the information deemed to be incorporated herein by reference, as of the date of the prospectus providing the information permitted to be omitted from this prospectus, will constitute full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by [insert if offering made in Quebec -- "and will not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

(c) Issuer's Certificate for Rule 430A Pricing Prospectus

Each Rule 430A Pricing Prospectus shall contain, in place of the certificate referred to in (a) above, the following issuer's certificate:

"The foregoing [insert, if applicable -- ", together with the documents incorporated herein by reference,"] constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by [insert applicable references] [insert if offering made in Quebec -- "and does not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

(d) Underwriters' Certificate for Rule 430A Pricing Prospectus

Where there is an underwriter, each Rule 430A Pricing Prospectus shall contain, in place of the certificate referred to in (b) above, the following underwriters' certificate signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus, are in a contractual relationship with the issuer or a selling security holder:

"To the best of our knowledge, information and belief, the foregoing [insert, if applicable -- ", together with the documents incorporated herein by reference,"] constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by [insert applicable references] [insert



if offering made in Quebec -- "and does not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

(4) Rights Offerings

A rights offering prospectus used under Section 3.4 need not contain an underwriters' certificate, provided that there is no soliciting activity in Canada other than the dissemination by the issuer of the rights and the prospectus and any securities acquired under a standby underwriting arrangement are not resold in Canada.

(5) Signing of Certificates

Certificates contained in a preliminary prospectus, prospectus, amendment to a preliminary prospectus or prospectus, prospectus supplement or Rule 430A Pricing Prospectus shall be signed in accordance with applicable Canadian securities legislation. However, the chief executive officer, chief financial officer and two directors, on behalf of the board of directors, of the issuer, and the underwriters may each sign such certificates for an offering made under the MJDS by an agent duly authorized in writing.

3..12 Conflicts of Interest

(1) General

Any provisions of applicable Canadian securities legislation which regulate conflicts of interest in connection with the distribution of securities of a registered dealer or a related party or related issuer or connected party or connected issuer of a registered dealer (the "Conflicts Rules") apply to offerings under the MJDS as follows:

- (a) the Conflicts Rules shall not apply so as to require any specified disclosure in the preliminary prospectus or prospectus; and
- (b) the Conflicts Rules shall apply so as to require the participation of an independent underwriter to the extent provided in Sections 3.12(2) and (3).

(2) Participation of Independent Underwriter

(a) Canada-U.S. Offerings

In an offering made under the MJDS in both Canada and the United States, any requirement in the Conflicts Rules for the underwriting of a portion of a distribution by an independent underwriter shall be satisfied if the aggregate of the portions of the distribution in Canada and the United States underwritten by at least one independent underwriter and its

affiliates is not less than the aggregate of the portions of the distribution in Canada and the United States underwritten by dealers in respect of which the issuer is a related issuer, related party, connected issuer or connected party or, where a dealer is not a registrant, would be a connected party or connected issuer if the dealer were a registrant.

(b) Canada-Only Offerings

In an offering made under the MJDS solely in Canada, any requirement in the Conflicts Rules for the underwriting of a portion of a distribution by an independent underwriter shall be satisfied if the aggregate of the portions of the distribution underwritten by at least one independent underwriter and its affiliates is not less than the aggregate of the portions of the distribution underwritten by dealers in respect of which the issuer is a related issuer, related party, connected issuer or connected party.

(3) Rule 415 Offerings

The Conflicts Rules must be satisfied for a delayed Rule 415 Offering for each tranche. The Conflicts Rules may be satisfied for a continuous Rule 415 Offering on the basis of the total amount of securities proposed to be distributed on a continuous basis.

3..13 Trust Indenture Requirements

Any requirement of a Canadian province or territory, applicable to trust indentures, in respect of any debt outstanding or guaranteed thereunder (including, without limitation, any requirement that a person or company appointed as a trustee under a trust indenture be resident or authorized to do business in the province or territory) shall not apply to offerings made under the MJDS, provided that:

- (1) the trust indenture under which the obligations are issued or guaranteed is subject to and complies with the Trust Indenture Act of 1939 of the United States; and
- (2) at least one person or company appointed as trustee under a trust indenture (i) is resident in such province or territory, (ii) is authorized to do business in such province or territory, or (iii) has filed with the applicable securities regulatory authority in such province or territory duly executed Submission to Jurisdiction and Appointment of Agent for Service of Process in the form set forth in Part C of Appendix "B".

Reference should be made to the Company Act (British Columbia) for the trust indenture requirements applicable in British Columbia.

3..14 Filing Packages and Commercial Copies

The supporting documentation specified below shall be filed with the applicable securities regulatory authorities in connection with offerings made under the MJDS in the manner specified. In addition, any exhibit to a registration statement shall be provided to an applicable securities regulatory authority upon request.

(1) Certificate Confirming Satisfaction of Eligibility Requirements

A certificate of the issuer, signed on its behalf by a senior officer, confirming that it satisfies the applicable eligibility criteria shall be filed with each applicable securities regulatory authority at the time of filing the preliminary prospectus for each offering made under the MJDS.

(2) Consents

The written consent of a solicitor, auditor, accountant, engineer, appraiser or any other person or company who is named as having prepared or certified any part of a disclosure document for an offering made under the MJDS or a document that is incorporated by reference therein, or who is named as having prepared or certified a report used in or in connection with such disclosure document or any document incorporated by reference therein (such part or report being referred to herein as an "expertised statement"), shall be prepared in accordance with the requirements of applicable Canadian securities legislation and shall be filed with each applicable securities regulatory authority in accordance with applicable Canadian securities legislation as follows:

- (a) If the expertised statement appears in the preliminary prospectus, an amendment thereto, the prospectus or a document incorporated by reference into the prospectus that was filed prior to the filing of the prospectus, the related consent shall be filed at the time of filing the prospectus.
- (b) If the expertised statement appears in an amendment to the prospectus, a prospectus supplement, a Rule 430A Pricing Prospectus, or a document incorporated by reference into a prospectus that was filed after the filing of the prospectus, the related consent shall be filed at the time of filing such amendment, prospectus supplement, Rule 430A Pricing Prospectus or document.

A further consent may be required to be filed with an amendment to a prospectus pursuant to the requirements of applicable Canadian securities legislation as a result of a material change to an expertised statement.

(3) Reports on Property

A report on the property of a natural resource company is not required to be filed for offerings made under the MJDS, unless such report is also required to be filed with the SEC.

(4) Appointment of Agent for Service

At the time of filing a prospectus under the MJDS, the issuer shall file a duly executed Submission to Jurisdiction and Appointment of Agent for Service of Process in the form set forth in Part A of Appendix "B" with each applicable securities regulatory authority.

(5) Powers of Attorney

If a person or company signs a certificate by an agent pursuant to Section 3.11(5), a duly executed copy of the document authorizing the agent to sign the certificate shall be filed with each applicable securities regulatory authority not later than the time of filing the document in which the certificate is included.

(6) Fees

The provisions of Canadian securities legislation regarding fees shall apply to an offering made under the MJDS in the same manner as though the offering had not been made under the MJDS.

Fees shall be payable for a Rule 415 Offering or Rule 430A Offering in the manner prescribed for offerings made under the shelf procedures and post-receipt pricing rules set forth in National Policy Statement No. 44, respectively.

(7) Commercial Copies

Commercial copies of any prospectus, prospectus supplement, preliminary prospectus used in connection with solicitations of expressions of interest, Rule 430A Pricing Prospectus or prospectus amendment used in an MJDS offering in connection with offers or sales of securities shall be filed with the applicable securities regulatory authorities. Once so filed, the commercial copy need not be refiled if it is used, without change, in offers or sales of additional tranche of securities.

4. Bids for Securities of U.S. Issuers

4.1 General

Subject to the provisions of this Section 4, the MJDS permits eligible take-over bids and issuer bids for securities of a U.S. issuer to be made in accordance with U.S. requirements to Canadian residents where Canadian residents hold less than 40% of the securities. The MJDS enables offerors generally to comply with applicable U.S. disclosure requirements and requirements governing the conduct of the bid in lieu of complying with Canadian requirements.

The MJDS is extended to take-over bids and issuer bids primarily to encourage fair treatment of Canadian investors. Security holders in a particular jurisdiction who are excluded from an offer may be relegated to choosing, without the disclosure and procedural safeguards available under either the Canadian or the U.S. regulatory scheme, whether to sell into the secondary market at less than the full bid price and incur additional transactional costs or to remain minority security holders subject to the possibility of being forced out of their equity position in a subsequent merger. The application of the MJDS to bids is intended to facilitate bids by reducing duplicative regulation and avoiding conflict between the two regulatory schemes. Because the substantive protections and disclosure obligations applicable to bids are, as a whole, comparable to those prescribed by applicable Canadian securities legislation, Canadian resident holders of securities of U.S. issuers should remain adequately protected by the application of U.S. rather than Canadian rules in the circumstances contemplated by this Policy Statement.

Particularly when relatively few securities are held by Canadian residents, there may be a disincentive to extend a bid to them if doing so would require compliance with additional Canadian regulatory requirements. The availability of the MJDS for bids for securities of U.S. issuers is intended to alter the offeror's cost-benefit analysis in favour of extending those bids to Canadian residents.

There are no offeror eligibility requirements except in the case of securities exchange bids. For securities exchange bids, compliance with U.S. disclosure requirements satisfies Canadian disclosure requirements with respect to the offeror and the offered securities only if the offeror meets certain reporting history, listing and other eligibility requirements and, in the case of securities exchange take-over bids, a substantiality or Approved Rating requirement. In take-over bids, unlike issuer bids and rights offerings, the investor has not already made an investment decision with respect to the issuer of the securities that are being offered in the exchange.

Bids made under the MJDS must be extended to all holders of the class of securities subject to the bid in Canada and the United States. Further, bids must be made on the same terms and conditions to all security holders.

Provision is made in the securities legislation of some Canadian provinces for exemption from take-over bid and issuer bid requirements if the bid is for the securities of a non-Canadian issuer, the bid is made in compliance with the laws of a recognized jurisdiction and there are relatively few holders in the province holding a relatively small percentage of the class of securities subject to the bid. An offeror is permitted to make a bid under the MJDS in certain provinces and territories and pursuant to such an exemption in others.

#### 4.2 Eligibility Requirements for a Bid

The MJDS may be used for a bid made to security holders in Canada if:

- (1) the offeree issuer is a U.S. issuer;
- (2) the offeree issuer is not registered or required to be registered as an investment company under the 1940 Act;
- (3) the offeree issuer is not a commodity pool issuer;
- (4) the bid is subject to section 14(d) of the 1934 Act in the case of a take-over bid or section 13(e) of the 1934 Act in the case of an issuer bid and is not exempt therefrom;
- (5) the bid is made to all holders of the class of securities in Canada and the United States;
- (6) the bid is made to residents of Canada on the same terms and conditions as it is made to residents of the United States; and
- (7) less than 40% of each class of securities that is the subject of the bid is held by persons or companies whose last address as shown on the books of the issuer is in Canada.

The calculation of the percentage of securities held by persons and companies having an address in Canada in this Section 4 shall be made as of the end of the offeree issuer's last quarter preceding the date of filing the Tender Offer Statement or Issuer Tender Offer Statement with the SEC or, if such quarter terminated within 60 days of such filing date, as of the end of the offeree issuer's preceding quarter. If another bid for securities of the same class of the offeree issuer is in progress at the date of such filing, the foregoing calculation for the subsequent bid shall be made as of the same date as for the first bid already in progress.

Where (i) a take-over bid is made without the prior knowledge of the directors of the offeree issuer who are not insiders of the offeror or acting jointly or in concert with the offeror, or (ii) upon informing such directors of the proposed bid the offeror has a reasonable basis for concluding that the bid is being regarded as a hostile bid by a majority of such directors, and in either such case the offeror lacks access to the relevant list of security holders of the offeree issuer, it will be conclusively presumed that (7) above is satisfied and clause (a) in the definition of "foreign issuer" is not satisfied, unless (i) the aggregate published trading volume of the class on the Toronto, Montreal, Vancouver and Alberta stock exchanges and the Canadian Dealing Network Inc. exceeded the aggregate published trading volume of the class on national securities exchanges in the United States and NASDAQ for the 12 calendar month period prior to commencement of the bid (or, if another bid for securities of the same class is in progress, the 12 calendar month period prior to commencement of the first bid already in progress); (ii) disclosure that (7) above was not satisfied or such clause (a) was satisfied had been made by the issuer in its Form 10-K prescribed under the 1934 Act most

recently filed with the SEC; or (iii) the offeror has actual knowledge that (7) above is not satisfied or such clause (a) is satisfied.

#### 4.3 Effect of Making a Bid

Subject to the provisions of this Section 4.3 and of Section 4.4, any bid made under the MJDS shall be exempt from compliance with the provisions of applicable Canadian securities legislation governing the conduct of bids, except any requirement to file with the applicable securities regulatory authorities and deliver a bid circular, a directors' circular or an individual officer's or director's circular and any notice of change or notice of variation to holders of the securities subject to the bid. Except as specifically provided in this Policy Statement, such documents are not required to comply with the form and content requirements set forth in applicable Canadian securities legislation. Such documents shall contain the information required to be disseminated to security holders in accordance with U.S. requirements and the additional information, legends and certificates required by this Policy Statement. They shall contain no untrue statement of material fact or omit to state a material fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made, but need not contain any disclosure relevant solely to U.S. security holders.

Provisions of applicable Canadian securities legislation that require disclosure of acquisitions reaching a certain threshold or restrict acquisitions of securities once such a threshold has been reached continue to apply.

Bids made under the MJDS must comply with the relevant requirements of applicable Canadian securities legislation relating to going private transactions, other than the requirement to provide a valuation at the time of a take-over bid where it is anticipated by the offeror that a going private transaction will follow the bid.

Where 20% or more of any class of securities that is the subject of a bid made under the MJDS is held by persons or companies whose last address as shown on the books of the issuer is in Canada, such bid must comply with the requirements of applicable Canadian securities legislation respecting integration of pre-bid transactions with the bid.

Where 20% or more of any class of securities that is the subject of an issuer bid or insider bid made under the MJDS is held by persons or companies whose last address as shown on the books of the issuer is in Canada, such bid must comply with the valuation requirements of applicable Canadian securities legislation.

All bids remain subject to the fundamental principle that transactions must not be prejudicial to the public interest. The applicable securities regulatory authorities also will continue to exercise their public interest jurisdiction in specific cases where they determine that it is necessary to do so in order to preserve the integrity of the Canadian capital markets.

The offeror shall comply with sections 14(d) and 14(e) of the 1934 Act and Regulations 14D and 14E thereunder in connection with any take-over bid made under the MJDS. The offeror shall comply with sections 13(e) and 14(e) of the 1934 Act and Regulations 13E and 14E thereunder in connection with any issuer bid made under the MJDS. The offeree issuer and its officers and directors shall comply either with the requirements of applicable Canadian securities legislation or with sections 14(d) and 14(e) of the 1934 Act and Regulations 14D and 14E thereunder in connection with any bid made under the MJDS.

#### 4.4 Securities Exchange Bids

In the case of a securities exchange bid, the provisions of applicable Canadian securities legislation applicable as a result of the consideration for the securities of the offeree issuer being at least in part securities of the offeror or other issuer shall be satisfied by compliance with U.S. requirements only if:

- (1) the offeree issuer and the bid satisfy the eligibility requirements set forth in Section 4.2;
- (2) the offeror or, if the securities are of another issuer, such other issuer, meets the eligibility requirements set forth in Sections 3.2(1), 3.2(2), 3.2(4), 3.2(5) and 3.4(2)(b), except that the reference in Section 3.4(2)b to the filing of a preliminary prospectus with the principal jurisdiction shall be replaced by the filing of the registration statement with the SEC;
- (3) the offeror or, if the securities being offered are of another issuer, such other issuer, has had a class of its securities listed on the New York Stock Exchange or the American Stock Exchange or quoted on NASDAQ NMS for a period of at least 12 calendar months immediately preceding the filing of the registration statement with the SEC and is in compliance with the obligations arising from such listing or quotation; and
- (4) any of the following are satisfied:
  - (a) the equity shares of such offeror or, if the securities being offered are of another issuer, such other issuer, have a public float of not less than U.S. \$75,000,000, determined as of a date within 60 days prior to the filing of the registration statement with the SEC;
  - (b) the securities being offered are non-convertible debt having an Approved Rating or non-convertible preferred shares having an Approved Rating; or
  - (c) the bid is an issuer bid made under the MJDS with securities of the issuer being offered as consideration.



#### 4.5 Mechanics of Making a Bid

##### (1) Filing Requirements

In order to use the MJDS to make a bid in Canada or to any security holder whose last address as shown on the books of the offeree issuer is in Canada, an offeror shall prepare a Tender Offer Statement or Issuer Tender Offer Statement, any exhibits and amendments thereto and any information required to be disseminated to security holders in accordance with U.S. requirements as interpreted and applied by the SEC. The bid circular shall consist of the tender offer materials disseminated to security holders resident on the date of commencement of the bid in the United States as modified pursuant to this Policy Statement. French language versions of these documents are not required to be filed for bids made under the MJDS, unless (i) the offeree issuer is a reporting issuer in Quebec, or (ii) 20% or more of any class of securities that is the subject of the bid is held by persons or companies whose last address as shown on the books of the issuer is in Canada.

As nearly as practicable contemporaneously with the filing with the SEC, the offeror shall file one unsigned copy of the Tender Offer Statement or Issuer Tender Offer Statement and all exhibits and amendments thereto, and one signed and two unsigned copies of the bid circular, together with the following supporting documentation, with each applicable securities regulatory authority:

- (a) a certificate of the offeror, signed on its behalf by a senior officer, confirming that the eligibility criteria set forth in Section 4.2 and, if applicable, Section 4.4 are satisfied;
- (b) the written consent of a solicitor, auditor, accountant, engineer, appraiser or any other person or company who is named as having prepared or certified any part of such materials or any document filed pursuant to Section 4.5(5) or incorporated by reference therein, or who is named as having prepared or certified a report used in or in connection with such materials or document;
- (c) a duly executed Submission to Jurisdiction and Appointment of Agent for Service of Process in the form set forth in Part B of Appendix "B"; and
- (d) if a person or company signs a certificate by an agent pursuant to Section 4.8, a duly executed copy of the document authorizing the agent to sign the certificate.

An offeror filing a bid circular under the MJDS must so notify the offeree issuer at its principal office not later than the business day following the day the bid circular is filed with any applicable securities regulatory authority.

(2) Directors' and Individual Officer's and Director's Circulars

If a bid is made under the MJDS, the offeree issuer and its officers and directors shall comply with the requirements of applicable Canadian securities legislation or with U.S. requirements in respect of the bid. In the case of compliance by the directors or by individual officers or directors with Canadian requirements, the requirements set out in this Policy Statement regarding directors' circulars or individual officer's or director's circulars, as the case may be, shall not apply. Otherwise, a Tender Offer Solicitation/Recommendation Statement, if applicable, and any exhibits and amendments thereto shall be prepared in accordance with U.S. requirements as interpreted and applied by the SEC. The directors' circular or an individual officer's or director's circular and any notice of change shall consist of the materials disseminated by the offeree issuer or its board of directors, an individual officer or officers, and an individual director or directors, respectively, to security holders resident in the United States and containing the certificates prescribed by Section 4.8. As nearly as practicable contemporaneously with the filing with the SEC, one unsigned copy of the Tender Offer Solicitation/Recommendation Statement and all exhibits and amendments thereto and one signed and two unsigned copies of the directors' circular or an individual officer's or director's circular, together with the following supporting documentation, shall be filed with each applicable securities regulatory authority:

- (a) a statement that the circular has been prepared in accordance with U.S. requirements;
- (b) the written consent of a solicitor, auditor, accountant, engineer, appraiser or any other person or company who is named as having prepared or certified any part of such materials or any document incorporated by reference therein, or who is named as having prepared or certified a report used in connection with such materials; and
- (c) if a person or company signs a certificate by an agent pursuant to Section 4.8, a duly executed copy of the document authorizing the agent to sign the certificate.

Notwithstanding that a bid was eligible to be made under the MJDS, the offeree issuer and its officers and directors may not use the MJDS in respect of the bid if the offeror did not make the bid under the MJDS.

(3) Notices of Variation and Notices of Change

The provisions of applicable Canadian securities legislation that prescribe the circumstances under which a bid circular, directors' circular, or individual officer's or director's circular is required to be changed or varied and the form and

content of the applicable disclosure documents shall not apply to bids made under the MJDS, unless, in respect of the directors' circular or individual officer's or director's circular, the directors or individual officer or director have elected to comply with the requirements of applicable Canadian securities legislation. Instead, disclosure documents filed under the MJDS shall be changed or varied in accordance with U.S. requirements as additional tender offer materials, but shall contain the legends, where applicable, and certificates required by this Policy Statement.

Any additional tender offer materials that vary the terms of the bid shall be filed, as modified, with the applicable securities regulatory authorities as a notice of variation and identified as such. Any additional tender offer materials that contain a change in the information from that contained in the tender offer materials or previous additional tender offer materials, other than information in respect of a variation in the terms of the bid, shall be filed, as modified, with the applicable securities regulatory authorities as a notice of change and identified as such. Any additional tender offer materials required to be identified as a notice of variation and a notice of change shall be identified as both. Any additional materials prepared by the directors or an individual officer or director shall be filed, as modified, with the applicable securities regulatory authorities as a notice of change and identified as such.

Any notice of variation or notice of change shall be filed in the requisite numbers referred to in Section 4.5(1) as nearly as practicable contemporaneously with the filing with the SEC. The filing package shall contain, if applicable, a duly executed copy of a document authorizing an agent to sign a certificate, and, in the event of a material change in the relevant part of the materials or document referred to in Section 4.5(1)(b), a further consent.

#### (4) Dissemination Requirements

Bid circulars, notices of change thereto and notices of variation thereto filed under the MJDS shall be mailed by prepaid first class mail or delivered by personal delivery to security holders whose last address as shown on the books of the offeree issuer is in a province or territory in which the bid is made under the MJDS (and, in respect of notices of change and variation, whose securities were not taken up at the date of the occurrence of the change or variation), whether those materials are published, sent or given to security holders resident in the United States by the use of stockholder lists and security position listings, by long-form publication or by summary publication. Any such documents generally sent or given to security holders resident in the United States shall be mailed or delivered to security holders whose last address as shown on the books of the offeree issuer is in Canada at the same time as they are sent or given to security holders resident in the United States. Any such documents published by long-form publication or by summary publication in the United States shall be mailed

or delivered to security holders whose last address as shown on the books of the offeree issuer is in Canada as soon as practicable following such publication.

Directors' circulars and individual officer's and director's circulars and notices of change thereto shall be mailed by first class mail or delivered by personal delivery to every person or company to whom a take-over bid circular was required to be delivered under the preceding paragraph. Any such document generally sent or given to security holders resident in the United States shall be mailed or delivered to security holders whose last address as shown on the books of the offeree issuer in Canada at the same time as such document is sent or given to security holders resident in the United States. Any such document published in the United States shall be mailed or delivered to security holders whose last address as shown on the books of the offeree is in Canada as soon as practicable following such publication.

(5) Securities Exchange Bids

In the case of securities exchange bids made under the MJDS for which a registration statement is filed with the SEC, one signed copy of the registration statement and all exhibits and amendments thereto (together with all documents incorporated therein by reference) shall be filed with each applicable securities regulatory authority as nearly as practicable contemporaneously with the filing with the SEC. The prospectus forming part of the registration statement shall be included in or incorporated by reference into the bid circular.

(6) Incorporation by Reference Procedures

Except as otherwise provided in this Policy Statement, documents shall be, and shall be deemed to be, incorporated by reference into materials filed under this Section 4.5 in accordance with U.S. securities law. Any statement contained in a document so incorporated by reference shall be deemed to be modified or superseded to the extent that a statement contained in such materials or in any other subsequently filed document which is incorporated by reference into such materials modifies or supersedes such statement. The making of such a modifying or superseding statement shall not be deemed an admission for any purposes that the modified or superseded statement, when made, constituted a misrepresentation, an untrue statement of material fact or an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made. Any statement so modified or superseded shall not be deemed in its unmodified or superseded form to constitute part of such materials.

Documents that are incorporated by reference into materials filed under this Section 4.5 are not required to be delivered to security holders unless they are required to be delivered to security holders under U.S. securities law; such

documents, in addition to being filed with the applicable securities regulatory authorities, shall be provided without charge to any person upon request.

#### 4.6 Additional Legends

The following are the texts of the additional legends and other disclosure required to be included in bid circulars used for a bid made under the MJDS. The legend contained in paragraph (1)(b) shall not be required if the offeror is incorporated or organized under the laws of Canada or a province or territory of Canada.

- (1) The following shall be printed on the outside front cover page (or on a sticker thereto) of each bid circular used in Canada under the MJDS:
  - (a) "This bid is made in Canada [for applicable securities exchange bids - "by a U.S. issuer"] for securities of a U.S. issuer in accordance with U.S. securities laws. Security holders should be aware that the U.S. requirements applicable to the bid may differ from those of [insert the names of the provinces and territories where bid is made]. [For securities exchange bids, also insert the following - "The financial statements included or incorporated by reference herein have not been prepared in accordance with Canadian generally accepted accounting principles and thus may not be comparable to financial statements of Canadian issuers."]
  - (b) "[All of] [Certain of] the directors and officers of the offeror and [all of] [certain of] the experts named herein reside outside of Canada. [[Substantially] all of the assets of these persons and of the offeror may be located outside of Canada.] The offeror has appointed [name and address of agent for service] as its agent for service of process in Canada, but it may not be possible for security holders to effect service of process within Canada upon the directors, officers and experts referred to above. It may also not be possible to enforce against the offeror, its directors and officers and [certain of] the experts named herein judgments obtained in Canadian courts predicated upon the civil liability provisions of applicable securities laws in Canada."
- (2) If documents are incorporated by reference into the bid circular, include in the section which provides information about incorporation by reference a statement that information has been incorporated by reference from documents filed with securities commissions or similar authorities in each jurisdiction in Canada

in which the documents have been filed and provide the name, address and telephone number of a person in Canada or the United States from whom copies of the documents so incorporated by reference may be obtained on request without charge.

- (3) The following shall be included in bid circulars used in Canada under the MJDS:

"Securities legislation in certain of the provinces [and territories] of Canada provides security holders of the offeree issuer with, in addition to any other rights they may have at law, rights of rescission or to damages, or both, if there is a misrepresentation in a circular or notice that is required to be delivered to such security holders. However, such rights must be exercised within prescribed time limits. Security holders should refer to the applicable provisions of the securities legislation of their province [or territory] for particulars of those rights or consult with a lawyer. Rights and remedies also may be available to security holders under U.S. law; security holders may wish to consult with a U.S. lawyer for particulars of these rights."

#### 4.7 Reconciliation of Financial Statements

Reconciliation of financial statements to Canadian GAAP or International Accounting Standards is not required for securities exchange bids made under the MJDS that satisfy the eligibility requirements of Section 4.4.

#### 4.8 Certificates

The text of the certificate for bid circulars and directors' and individual officer's and director's circulars used under the MJDS is as follows:

"The foregoing contains no untrue statement of a material fact and does not omit to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made."

The text of the certificate for notices of variation and notices of change shall be in the form required in the preceding paragraph, amended to refer to the initial circular and all notices of variation or change thereto.

The certificate shall be signed in accordance with applicable Canadian securities legislation. However, the chief executive officer, the chief financial officer, and two directors, on behalf of the board of directors, of the offeror or the offeree issuer, may each sign the certificate by an agent duly authorized in writing.

#### 4.9 Fees

The provisions of Canadian securities legislation regarding fees shall apply to a bid made under the MJDS in the same manner as though the bid had not been made under the MJDS.

### 5. Business Combinations

#### 5.1 General

The MJDS permits securities of a U.S. issuer to be distributed by prospectus in Canada on the basis of documentation prepared in accordance with U.S. requirements (with certain additional Canadian disclosure) in connection with a business combination where less than 40% of the securities to be distributed by the successor issuer would be held by Canadian residents. As in the case of take-over bids, the MJDS is available for business combinations primarily to encourage fair treatment of Canadian investors.

Securities legislation of most of the Canadian provinces and territories provides for an exemption from prospectus requirements for certain distributions of securities issued in connection with a statutory amalgamation, merger or arrangement. As a result, an issuer may elect not to use the MJDS, but to distribute securities issued in a business combination pursuant to a prospectus exemption. A consequence of using a prospectus exemption instead of the MJDS may be resale restrictions on the distributed securities. However, under blanket rulings issued in certain provinces, the resale of securities acquired under such an exemption is not a distribution in respect of which a prospectus is required if the issuer meets certain eligibility and reporting requirements and the resale is executed through the facilities of a stock exchange outside of Canada or on NASDAQ.

A business combination done under the MJDS must comply with the relevant requirements of applicable Canadian securities legislation relating to going private transactions and, if it constitutes a related party transaction, the relevant requirements of applicable Canadian securities legislation relating to minority approvals and valuations. All business combinations remain subject to the fundamental principle that transactions must not be prejudicial to the public interest. The applicable securities regulatory authorities also will continue to exercise their public interest jurisdiction in specific cases where they determine that it is necessary to do so in order to preserve the integrity of the Canadian capital markets.

#### 5.2 Eligibility Requirements

The MJDS may be used for the distribution of securities to security holders in Canada in connection with a business combination by a successor issuer subsisting after the business combination if:

- (1) each person or company participating in the business combination meets the eligibility requirements specified in Sections 3.2(1), 3.2(2), 3.2(4),

3.2(5), and 3.4(2)(b), provided that the eligibility requirements specified in Sections 3.2(2) and 3.4(2)(b) shall not be required to be met in respect of participating persons or companies whose assets and gross revenues in aggregate would contribute less than 20% of the total assets and gross revenues from continuing operations of the successor issuer, based on a pro forma combination of each participating person's and company's financial position and results of operations for its most recently completed fiscal year ended prior to the business combination for which financial statements have been filed;

- (2) the equity shares of each person or company participating in the business combination have a public float of not less than U.S. \$75,000,000, determined as of a date within 60 days prior to the filing of the preliminary prospectus with the principal jurisdiction, provided that this requirement shall not apply in respect of participating persons or companies whose assets and gross revenues in aggregate would contribute less than 20% of the total assets and gross revenues from continuing operations of the successor issuer, based on a pro forma combination of each participating person's and company's financial position and results of operations for its most recently completed fiscal year ended prior to the business combination for which financial statements have been filed, and provided further that such requirement may be satisfied in respect of a participating -----person or company whose securities were the subject of a bid made under or eligible to have been made under the MJDS that terminated within the preceding 12 months if such requirement would have been satisfied immediately prior to commencement of the bid;
- (3) each person or company participating in the business combination has had a class of its securities listed on the New York Stock Exchange or the American Stock Exchange or quoted on NASDAQ NMS for a period of at least 12 calendar months immediately preceding the filing of the preliminary prospectus with the principal jurisdiction and is in compliance with the obligations arising from such listing or quotation, provided that this requirement shall not apply in respect of participating persons or companies whose assets and gross revenues in aggregate would contribute less than 20% of the total assets and gross revenues from continuing operations of the successor issuer, based on a pro forma combination of each participating person's and company's financial position and results of operations for its most recently completed fiscal year ended prior to the business combination for which financial statements have been filed;
- (4) the issue or exchange of securities in connection with the business combination is made to residents of Canada on the same terms and conditions as it is made to residents of the United States; and



- (5) less than 40% of the class of securities to be distributed in the business combination by the successor issuer would be distributed to persons or companies whose last address as shown on the books of the participating person or company is in Canada.

The calculation of the percentage of securities held by persons or companies having an address in Canada shall be made with respect to each participating person or company as of the end of such participating person's or company's last quarter preceding the date of filing the preliminary prospectus with the principal jurisdiction or, if such quarter terminated within 60 days of such filing date, as of the end of the participating person's or company's preceding quarter. Such calculation shall be made on the basis of the assumption that all persons or companies who have an option in respect of the consideration to be received pursuant to the business combination elect the option that would result in the issuance of the greatest number of securities.

### 5.3 Mechanics

If the eligibility requirements set forth in Section 5.2 are met, securities may be distributed in Canada under the MJDS in connection with a business combination by complying with the procedures set forth in Sections 3.8, 3.9, 3.11(1), 3.11(5) and 3.14. The disclosure documents would be required to be filed both as a prospectus and as an information circular. Reconciliation of financial statements to Canadian GAAP or International Accounting Standards is not required for business combinations done under the MJDS.

## 6. Continuous Disclosure, Proxies and Proxy Solicitation, Shareholder Communication and Insider Reporting

An issuer that files a prospectus or a bid circular for a securities exchange take-over bid in certain provinces of Canada becomes a reporting issuer in those provinces, subject, among other things, to certain continuous disclosure, proxy and proxy solicitation, and shareholder communication requirements, with its insiders being subject to certain insider reporting requirements.

Compliance with U.S. requirements relating to (i) current reports, (ii) annual reports, and (iii) proxy statements, proxies and proxy solicitation by a U.S. issuer that has a class of securities registered pursuant to section 12 of the 1934 Act (or, in the case of current reports and annual reports, is required to file reports pursuant to section 15(d) of the 1934 Act) will satisfy the requirements of the Canadian provinces and territories relating to (i) reports of material change, (ii) annual information forms, annual reports and management's discussion and analysis of financial condition and results of operations, and (iii) information circulars, proxies and proxy solicitation, respectively, provided that (a) two copies of any material filed with the SEC are filed with the applicable securities regulatory authorities that require the filing of material of that nature (i) in the case of current reports, forthwith after the earlier of the date the report is filed with the SEC and the date it is required to be filed with the SEC, and (ii) in the case of other documents, within 24 hours after they are filed with the SEC, and (b) such documents are

provided to security holders whose last address as shown on the books of the issuer is in Canada in the manner and at the time required by applicable U.S. law.

Compliance by any other person or company with U.S. requirements relating to proxies and proxy solicitation with respect to a U.S. issuer that has a class of securities registered pursuant to section 12 of the 1934 Act will satisfy the requirements of the Canadian provinces and territories relating to proxies and proxy solicitation, provided that (i) two copies of any material relating to a meeting of security holders filed with the SEC are filed with the applicable securities regulatory authorities that require the filing of material of that nature within 24 hours after they are filed with the SEC, and (ii) such documents are provided to security holders whose last address as shown on the books of the issuer is in Canada in the manner and at the time required by applicable U.S. law.

Compliance with U.S. requirements relating to quarterly reports and annual reports by a U.S. issuer that has a class of securities registered pursuant to section 12 of the 1934 Act or is required to file reports pursuant to section 15(d) of the 1934 Act will satisfy the requirements of the Canadian provinces and territories relating to interim financial statements and annual financial statements, respectively, provided that:

- (1) two copies of any material filed with the SEC are filed with the applicable securities regulatory authorities that require the filing of financial statements within 24 hours after they are filed with the SEC; and
- (2) (a) if:
  - (i) the issuer is a reporting issuer in the Canadian provinces and territories solely as the result of offerings, bids and business combinations made under the MJDS;
  - (ii) the issuer meets the eligibility requirements specified in Sections 3.3(1) and (2); or
  - (iii) the issuer meets the eligibility requirements specified in Sections 3.2(1)-(5) and the issuer is a reporting issuer in the Canadian provinces and territories solely as the result of the distribution of securities that have an Approved Rating and meet the eligibility requirements of Section 3.2(6),  
then such documents are provided to security holders whose last address as shown on the books of the issuer is in Canada in the manner  
and at the time required by applicable U.S. law; or
- (b) otherwise such documents are provided to security holders whose last address as shown on the books of the issuer is in Canada in the manner and at the time required by applicable Canadian securities legislation.

A U.S. issuer that has a class of its securities listed on the New York Stock Exchange or the American Stock Exchange or quoted on NASDAQ may satisfy any obligation under Canadian securities legislation to issue and file a press release by (i) complying with the requirements of either such exchange or NASDAQ in respect of making public disclosure of material information on a timely basis, and (ii) forthwith issuing in Canada, and filing with the applicable securities regulatory authorities that require the filing of press releases, any press release that discloses a material change in its affairs.

A U.S. issuer shall not be required to comply with the requirements of National Policy Statement No. 41 (Shareholder Communication) so long as it complies with the requirements of Rule 14a-13 under the 1934 Act with respect to any Canadian clearing agency (i.e., The Canadian Depository for Securities Limited and West Canada Depository Trust Company) and any intermediary whose last address as shown on the books of the issuer is in Canada. Any such clearing agency or intermediary shall be required to comply only with the requirements of National Policy Statement No. 41 with respect to any such issuer, including, without limitation, responding to search cards and delivering proxy-related materials within the time periods specified in National Policy Statement No. 41. Any such intermediary shall be entitled to receive the fees and charges set out in National Policy Statement No. 41. For purposes of this paragraph, an intermediary means a registered dealer or adviser, a financial institution (bank or trust company), a participant in a clearing agency, a trustee or administrator of a self-administered retirement savings plan, retirement income fund, education savings plan, or other similar self-administered savings or investment plan registered under the Income Tax Act (Canada), or a nominee of any of the foregoing, that holds a security on behalf of another person or company who is not the registered holder of the security, unless excluded from the definition of "intermediary" by National Policy Statement No. 41.

An insider of a U.S. issuer that has a class of securities registered pursuant to section 12 of the 1934 Act shall not be required to file with any securities regulatory authority in Canada insider reports with respect to holdings of securities of such issuer so long as such insider files with the SEC on a timely basis all reports required to be filed with the SEC pursuant to section 16(a) of the 1934 Act and the rules and regulations thereunder.

#### 7. U.S.-Only Offerings by Canadian Issuers

Where a Canadian issuer uses Form F-9 or F-10 prescribed under the 1933 Act to make an offering solely in the United States under the multijurisdictional disclosure system adopted by the SEC, the issuer shall select a review jurisdiction in Canada no later than the time of filing the registration statement with the SEC and shall advise the SEC of its selection. The jurisdiction selected may or may not agree to act in such capacity. If a jurisdiction does not agree to act, the issuer shall select another jurisdiction. As of the date of this Policy Statement, the securities regulatory authorities of New Brunswick, Prince Edward Island, Newfoundland, Yukon Territory and the Northwest Territories have indicated that they will not agree to act as the review jurisdiction in connection with offerings made under the MJDS. The issuer shall file with the review jurisdiction the documents that it files with the SEC no later than the time such

documents are filed with the SEC, provided that the preliminary prospectus and prospectus filed with the review jurisdiction need not contain a certificate signed by the underwriters.

If the review jurisdiction selects a U.S.-only offering for review, it will so notify the issuer and the SEC within three business days of the date of filing of the preliminary prospectus. The review jurisdiction will give its comments, if any, to the issuer. Once all the comments have been resolved, the review jurisdiction will notify the issuer and the SEC of the receipt of the prospectus.

The issuer shall pay a fee of \$2,500 to the review jurisdiction at the time of filing the preliminary prospectus.

The selection of a review jurisdiction does not affect any obligation the issuer otherwise may have to file a prospectus with a securities regulatory authority in Canada, whether as a result of the likelihood that the securities will not come to rest outside of Canada, as a result of a distribution being made from a province or territory, or otherwise.

#### APPENDIX "A" TO NATIONAL POLICY STATEMENT NO. 45

#### FORMS OF CERTIFICATES FOR RULE 415 OFFERINGS

##### 1. Method 1: Supplements Without Certificates

###### (a) Issuer's Certificate

- (i) To use Method 1, the preliminary prospectus and prospectus used for a Rule 415 Offering must contain the following issuer's certificate:

"The foregoing, together with the documents incorporated herein by reference, as of the date of each supplement hereto, will constitute full, true and plain disclosure of all material facts relating to the securities offered by this prospectus and such supplement as required by [insert applicable references] [insert if offering made in Quebec -- "and will not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

- (ii) To use Method 1 for an MTN Program established under a prospectus for a Rule 415 Offering by a prospectus supplement, where a certificate of the issuer of the type referred to in Paragraph 1(a)(i) of this Appendix was not included in the prospectus, the supplement establishing such program in Canada must contain the following issuer's certificate:

"The prospectus dated \*\*\*, [insert if applicable -- "as amended,"] together with the documents incorporated therein by reference, as supplemented by the foregoing, as of the date of each supplement

hereto, will constitute full, true and plain disclosure of all material facts relating to the securities offered hereby and by such supplement as required by [insert applicable references] [insert if offering made in Quebec -- "and will not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

- (iii) To use Method 1, each amendment to a prospectus used for a Rule 415 Offering, where the prospectus contained a certificate of the type referred to in Paragraph 1(a)(i) of this Appendix, must contain the following issuer's certificate:

"The prospectus dated \*\*\*, as amended, together with the documents incorporated therein by reference, as of the date of each supplement thereto, will constitute full, true and plain disclosure of all material facts relating to the securities offered by such prospectus and supplement as required by [insert applicable references] [insert if offering made in Quebec -- "and will not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

(b) Underwriters' Certificate

- (i) Where there is an underwriter, to use Method 1 each preliminary prospectus and prospectus for a Rule 415 Offering shall contain the following underwriters' certificate signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus supplement, are, or it is known will be, in a contractual relationship with the issuer or a selling security holder:

"To the best of our knowledge, information and belief, the foregoing, together with the documents incorporated herein by reference, as of the date of each supplement hereto, will constitute full, true and plain disclosure of all material facts relating to the securities offered by this prospectus and such supplement as required by [insert applicable references] [insert if offering made in Quebec -- "and will not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

- (ii) To use Method 1 for an MTN Program established by a prospectus supplement, where the prospectus did not contain a certificate of an underwriter of the type referred to in Paragraph 1(b)(i) of this Appendix of an underwriter, such supplement shall contain the following underwriters' certificate signed by the underwriter or underwriters who, with respect to

the securities offered by such supplement, are, or will be, in a contractual relationship with the issuer or a selling security holder:

"To the best of our knowledge, information and belief, the prospectus dated \*\*\*, [insert if applicable -- "as amended,"] together with the documents incorporated therein by reference, as supplemented by the foregoing, as of the date of each supplement hereto, will constitute full, true and plain disclosure of all material facts relating to the securities offered hereby and by such supplement as required by [insert applicable references] [insert if offering made in Quebec -- "and will not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

- (iii) To use Method 1, each amendment to a prospectus used for a Rule 415 Offering, where the prospectus contained a certificate of an underwriter of the type referred to in Paragraph 1(b)(i) of this Appendix, shall contain the following underwriters' certificate signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus are, or it is known will be, in a contractual relationship with the issuer or a selling security holder:

"To the best of our knowledge, information and belief, the prospectus dated \*\*\*, as amended, together with the documents incorporated therein by reference, as of the date of each supplement thereto, will constitute full, true and plain disclosure of all material facts relating to the securities offered by such prospectus and supplement as required by [insert applicable references] [insert if offering made in Quebec -- "and will not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

2. Method 2: Certificates in Each Supplement

(a) Issuer's Certificate

- (i) To use Method 2, the preliminary prospectus and prospectus used for a Rule 415 Offering must contain the following issuer's certificate:

"The foregoing, together with the documents incorporated herein by reference, constitutes full, true and plain disclosure of all material facts relating to such securities as required by [insert applicable references] [insert if offering made in Quebec -- "and does not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

- (ii) To use Method 2, each prospectus supplement used for a Rule 415 Offering must contain the following issuer's certificate:

"The prospectus dated \*\*\*, [insert if applicable -- "as amended,"] together with the documents incorporated therein by reference, as supplemented by the foregoing, constitutes full, true and plain disclosure of all material facts relating to the securities offered by such prospectus and this supplement as required by [insert applicable references] [insert if offering made in Quebec -- "and does not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

- (iii) To use Method 2, each amendment to a prospectus used in Canada for a Rule 415 Offering must contain the following issuer's certificate:

"The prospectus dated \*\*\*, as amended, together with the documents incorporated therein by reference, constitutes full, true and plain disclosure of all material facts relating to the securities offered thereby as required by [insert applicable references] [insert if offering made in Quebec -- "and does not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

(b) Underwriters' Certificate

- (i) Where there is an underwriter, to use Method 2, each preliminary prospectus and prospectus for a Rule 415 Offering shall contain the following underwriters' certificate signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus, are, or it is known will be, in a contractual relationship with the issuer or a selling security holder:

"To the best of our knowledge, information and belief, the foregoing, together with the documents incorporated herein by reference, constitutes full, true and plain disclosure of all material facts relating to such securities as required by [insert applicable references] [insert if offering made in Quebec -- "and does not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

- (ii) Where there is an underwriter, to use Method 2, each prospectus supplement used for a Rule 415 Offering shall contain the following underwriters' certificate signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus supplement, are in a contractual relationship with the issuer or a selling security holder:

"To the best of our knowledge, information and belief, the prospectus dated \*\*\*, [insert if applicable -- "as amended,"] together with the documents incorporated therein by reference, as supplemented by the foregoing, constitutes full, true and plain disclosure of all material facts relating to the securities offered by such prospectus and this supplement as required by [insert applicable references] [insert if offering made in Quebec -- "and does not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

- (iii) To use Method 2, each amendment to a prospectus used for a Rule 415 Offering, where the prospectus contained a certificate of an underwriter of the type referred to in Paragraph 2(b)(i) of this Appendix, shall contain the following underwriters' certificate signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus are, or it is known will be, in a contractual relationship with the issuer or a selling security holder:

"To the best of our knowledge, information and belief, the prospectus dated \*\*\*, as amended, together with the documents incorporated therein by reference, constitutes full, true and plain disclosure of all material facts relating to the securities offered thereby as required by [insert applicable references] [insert if offering made in Quebec -- "and does not contain any misrepresentation likely to affect the value or the market price of the securities to be distributed"]".

- iv) If:
- A. Method 2 is being used;
  - B. an amendment to a prospectus for a Rule 415 Offering is filed with respect to a material change that occurred during a period when offers and sales of securities are being made by an underwriter in Canada; and
  - C. such prospectus did not contain a certificate of such underwriter of the type referred to in Paragraph 2(b)(i) of this Appendix,

such underwriter shall resign the certificate that it previously provided pursuant to Paragraph 2(b)(ii) of this Appendix in the prospectus supplement describing the securities being so offered. This resigned underwriters' certificate shall be filed with the applicable securities regulatory authorities concurrently with the amendment.



APPENDIX "B" TO NATIONAL POLICY STATEMENT NO. 45

FORMS OF SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE OF PROCESS

A. Prospectus Offering of Securities

1. Name of issuer (the "Issuer"): \_\_\_\_\_.
2. Jurisdiction of incorporation of Issuer: \_\_\_\_\_.
3. Address of principal place of business of Issuer: \_\_\_\_\_  
\_\_\_\_\_.
4. Description of securities (the "Securities"): \_\_\_\_\_  
\_\_\_\_\_.
5. Date of prospectus (the "Prospectus") pursuant to which the Securities are offered: \_\_\_\_\_.
6. Name of agent (the "Agent"): \_\_\_\_\_.
7. Address for service of process of Agent in Canada: \_\_\_\_\_  
\_\_\_\_\_.
8. The Issuer designates and appoints the Agent at the address of the Agent stated above as its agent upon whom may be served any notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (the "Proceeding") arising out of or relating to or concerning the distribution of the Securities made or purported to be made pursuant to the Prospectus or the obligations of the Issuer as a reporting issuer, and irrevocably waives any right to raise as a defence in any such Proceeding any alleged lack of jurisdiction to bring such Proceeding.
9. The Issuer irrevocably and unconditionally submits to the non-exclusive jurisdiction of:
  - (a) the judicial, quasijudicial and administrative tribunals of each of the provinces [and territories] of Canada in which the Securities are distributed pursuant to the Prospectus; and
  - (b) any administrative proceeding in any such province [or territory],

in any Proceeding arising out of or related to or concerning the distribution of the Securities made or purported to be made pursuant to the Prospectus.

- 10. Until six years after it has ceased to be a reporting issuer in any Canadian province or territory, the Issuer shall file a new Submission to Jurisdiction and Appointment of Agent for Service of Process in the form hereof at least 30 days prior to termination of this Submission to Jurisdiction and Appointment of Agent for Service of Process for any reason whatsoever.
- 11. Until six years after it has ceased to be a reporting issuer in any Canadian province or territory, the Issuer shall file an amended Submission to Jurisdiction and Appointment of Agent for Service of Process at least 30 days prior to any change in the name or above address of the Agent.
- 12. This Submission to Jurisdiction and Appointment of Agent for Service of Process shall be governed by and construed in accordance with the laws of \_\_\_\_\_ [province of above address of Agent].

Dated: \_\_\_\_\_

\_\_\_\_\_ [Issuer]

By: \_\_\_\_\_  
[Name and title]

The undersigned accepts the appointment as agent for service of process of \_\_\_\_\_ [Issuer] pursuant to the terms and conditions of the foregoing Appointment of Agent for Service of Process.

Dated: \_\_\_\_\_

\_\_\_\_\_ [Agent]

By: \_\_\_\_\_  
[Name and title]

B. Take-Over or Issuer Bid

- 1. Name of offeror (the "Offeror"): \_\_\_\_\_.
- 2. Jurisdiction of incorporation of Offeror: \_\_\_\_\_.
- 3. Address of principal place of business of Offeror: \_\_\_\_\_  
\_\_\_\_\_
- 4. Description of securities (the "Securities"): \_\_\_\_\_  
\_\_\_\_\_

5. Date of bid (the "Bid") for the Securities:  
\_\_\_\_\_.
6. Name of agent (the "Agent"): \_\_\_\_\_.
7. Address for service of process of Agent in Canada: \_\_\_\_\_  
\_\_\_\_\_.
8. The Offeror designates and appoints the Agent at the address of the Agent stated above as its agent upon whom may be served any notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (the "Proceeding") arising out of or relating to or concerning the Bid [insert for securities exchange bids - "or the obligations of the Offeror as a reporting issuer"], and irrevocably waives any right to raise as a defence in any such Proceeding any alleged lack of jurisdiction to bring such Proceeding.
9. The Offeror irrevocably and unconditionally submits to the non-exclusive jurisdiction of:
  - (a) the judicial, quasijudicial and administrative tribunals of each of the provinces [and territories] of Canada in which the Bid is made; and
  - (b) any administrative proceeding in any such province [or territory], in any Proceeding arising out of or related to or concerning the Bid.
10. Until six years from the date of the Bid, the Offeror shall file a new Submission to Jurisdiction and Appointment of Agent for Service of Process in the form hereof at least 30 days prior to termination of this Submission to Jurisdiction and Appointment of Agent for Service of Process for any reason whatsoever.
11. Until six years from the date of the Bid, the Offeror shall file an amended Submission to Jurisdiction and Appointment of Agent for Service of Process at least 30 days prior to any change in the name or above address of the Agent.
12. This Submission to Jurisdiction and Appointment of Agent for Service of Process shall be governed by and construed in accordance with the laws of \_\_\_\_\_ [province of above address of Agent].

Dated: \_\_\_\_\_

\_\_\_\_\_ [Offeror]  
By: \_\_\_\_\_  
[Name and title]

The undersigned accepts the appointment as agent for service of process of \_\_\_\_\_ [Offeror] pursuant to the terms and conditions of the foregoing Appointment of Agent for Service of Process.

Dated: \_\_\_\_\_

\_\_\_\_\_ [Agent]  
By: \_\_\_\_\_  
[Name and title]

C. Trust Indenture

1. Name of trustee (the "Trustee"): \_\_\_\_\_.
2. Jurisdiction of incorporation of Trustee: \_\_\_\_\_.
3. Address of principal place of business of Trustee: \_\_\_\_\_.
4. Description of securities (the "Securities"): \_\_\_\_\_.
5. Date of trust indenture (the "Indenture") pursuant to which the Securities are issued: \_\_\_\_\_.
6. Name of agent (the "Agent"): \_\_\_\_\_.
7. Address for service of process of Agent in Canada: \_\_\_\_\_.
8. The Trustee designates and appoints the Agent at the address of the Agent stated above as its agent upon whom may be served any notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (the "Proceeding") arising out of or relating to or concerning the Indenture, and irrevocably waives any right to raise as a defence in any such Proceeding any alleged lack of jurisdiction to bring such Proceeding.
9. The Trustee irrevocably and unconditionally submits to the non-exclusive jurisdiction of:

- (a) the judicial, quasijudicial and administrative tribunals of each of the provinces [and territories] of Canada in which the Securities are issued; and
  - (b) any administrative proceeding in any such province [or territory], in any Proceeding arising out of or related to or concerning the Indenture.
10. Until six years from the termination of the Indenture, the Trustee shall file a new Submission to Jurisdiction and Appointment of Agent for Service of Process in the form hereof at least 30 days prior to termination of this Submission to Jurisdiction and Appointment of Agent for Service of Process for any reason whatsoever.
  11. Until six years from the termination of the Indenture, the Trustee shall file an amended Submission to Jurisdiction and Appointment of Agent for Service of Process at least 30 days prior to any change in the name or above address of the Agent.
  12. This Submission to Jurisdiction and Appointment of Agent for Service of Process shall be governed by and construed in accordance with the laws of \_\_\_\_\_ [province of above address of Agent].

Dated: \_\_\_\_\_

\_\_\_\_\_ [Trustee]  
By: \_\_\_\_\_  
Name and title]

The undersigned accepts the appointment as agent for service of process of \_\_\_\_\_ [Trustee] pursuant to the terms and conditions of the foregoing Appointment of Agent for Service of Process.

Dated: \_\_\_\_\_

\_\_\_\_\_ [Agent]  
By: \_\_\_\_\_  
[Name and title]