

## NPS 46 (Draft) Index And Commodity Warrants

### Introduction

#### (i) General

Issuers in Canada have traditionally issued debt, preferred shares and common shares as well as various securities which give a purchaser the right to obtain other securities of the issuer. In each of these cases, the value of the security purchased is based principally on the earnings and financial position of the issuer.

Increasingly common are derivative securities which compensate investors based on a change in the market price, value or level of an underlying interest other than a security of the issuer or an affiliate of the issuer. This underlying interest may be a commodity, some benchmark such as a stock index or a foreign exchange rate, or a security of another issuer which is not affiliated with the issuer. In each of these cases, while the creditworthiness of the issuer is often significant, the value of the security purchased is determined principally by something other than the earnings and financial position of the issuer.

The Canadian securities regulatory authorities recognize that the introduction of derivative securities to the Canadian retail marketplace has provided investors with new investment opportunities. The novel underlying interests of certain derivative offerings have enabled retail investors to access markets which have not previously been accessible. In addition, certain derivative securities have provided investors with an opportunity that may not otherwise have been available to satisfy different investment objectives with respect to a particular underlying interest.

#### (ii) Content of the Policy

Many prospectus, continuous disclosure and trading requirements of securities legislation in Canada do not adequately address the novel regulatory issues raised by public offerings of certain derivative securities.

To address these deficiencies, this Policy prescribes prospectus, continuous disclosure and trading requirements which are based on the unique attributes and speculative investment nature of certain of these securities. The Policy also provides that (i) an issuer of Warrants (as defined in Article 1.1(t)) must meet or exceed a net asset and working capital threshold and satisfy hedging requirements; (ii) novel underlying interests (as defined) must satisfy certain criteria and (iii) certain calculations, valuations and determinations relating to derivative securities must be made by an independent and qualified entity.

This Policy also establishes expedited and confidential prospectus review procedures. It is the intention of the Canadian securities regulatory authorities that greater consistency in preliminary prospectus disclosure, together with expedited prospectus review procedures, will shorten the prospectus review process and thereby address the market timing sensitivity of offerings of certain derivative securities. As well, in recognition of the unique characteristics of these securities, confidential prospectus review procedures and procedures for pricing after the issuance of a receipt for a prospectus are established by this Policy.

#### (iii) Scope of the Policy

The provisions of this Policy apply to distributions of Warrants by prospectus and, in the case of Warrants offered by the government of Canada or a province or territory of Canada, distributions by offering circular.<sup>1 2</sup>

<sup>1</sup>To determine whether or not a particular debt-like security is a Warrant see Article 1.1(t) and Articles 1.2 to 1.5.

<sup>2</sup>Distributions of certain debt-like securities (as defined in Article 1.1(c), may not be made under certain exemptions from prospectus and registration requirements. See Article 1.5.

As used in this Policy, Warrants mean:

- (i) put and call options, other than options issued by a clearing corporation, the value of which is based upon the market price, value or level of one or more underlying interests (as defined in Article 1.1(s)).
- (ii) debt-like securities (as defined in Article 1.1(c) and interpreted in Articles 1.2 to 1.5) which, as of the date of the prospectus, include as a substantial component either an obligation to pay to the holder a contingent amount based on the appreciation or depreciation in the market price, value or level of one or more underlying interests on a pre-determined date or dates or a right to convert or exchange the security for the underlying interest or to purchase the underlying interest.

For greater certainty, this Policy does not apply to:

- A. rights, warrants, options or other securities exercisable or exchangeable for, or convertible into, securities issued by the issuer or by its affiliates;
- B. options issued by a clearing corporation;
- C. government strip bonds;
- D. Toronto 35 Index Participation Units;
- E. conventional mutual funds; and
- F. futures and options pools.

(iv) Warrants

Warrants are similar to clearing corporation options as they are, or have as a substantial component, a put or call option, have a maturity date, exercise (or strike) price, may be exercised at pre-determined times over the term of the Warrant, may have cash or physical settlement and may provide significant leverage to the investor. Accordingly, the Policy provides safeguards that are designed to meet the investor protection concerns raised by the trading of clearing corporation options.

Clearing corporation options are exempt from prospectus requirements of applicable securities legislation provided that, among other things, a standardized disclosure document is delivered to investors. Distributions of Warrants which are not otherwise exempt from prospectus requirements must be made by prospectus as the terms and conditions of Warrants are not standardized and Warrants may have significant issuer credit risk.

In order to provide first time retail purchasers of Warrants, including secondary market purchasers, with information concerning the risks related to options and Warrants, this Policy requires that all retail purchasers of Warrants have an account to trade in Recognized Market Options and thereby have received the Disclosure Statement for Recognized Market Options.

(v) Novel Warrants

The provisions of this Policy reflect the position of the Canadian securities regulatory authorities based upon disclosure documents relating to distributions of Warrants which have been filed to date. Future distributions of Warrants may include novel features which raise issues not addressed by this Policy, in which case the Canadian securities regulatory authorities may determine that certain requirements apply in place of, or in addition to, the provisions of this Policy.

(vi) Applicability of Securities Legislation and Other Policy Statements

Except as otherwise specified, all securities legislation, policy statements, rulings and orders applicable to distributions of and trading in securities apply to distributions of and trading in Warrants. However, the requirements of the Standard Prospectus Form (as defined in Article 1.1(q)) are inapplicable to Warrants other than debt-like securities.

Warrant offerings of debt-like securities must comply with this Policy with respect to the component of the security linked to an underlying interest and must comply with the requirements of the appropriate Standard Prospectus Form, to the extent comparable requirements are not included in this Policy, with respect to the debt-like component of the security.

## ARTICLE ONE

### Definitions and Interpretation

#### Definitions

- 1.1 As used in this Policy and its appendix, unless the subject matter or context otherwise requires:
- (a) "Breakeven Point" means the amount, calculated on the date of the prospectus, to which the spot market price, value or level of the underlying interest must increase in the case of call Warrants, or decrease in the case of put Warrants, for the Warrants to have a Settlement Value equal to the Issue Price;
  - (b) "Calculation Expert" means a person or company that is an Independent and qualified authority in valuing Warrants and the underlying interest of the Warrants;
  - (c) "debt-like securities" mean securities (other than conventional floating rate debt instruments) which evidence indebtedness of the issuer where (i) the amount of interest and/or principal to be paid to the holder is linked in whole or in part by formula to the appreciation or depreciation in the market price, value or level of one or more underlying interests on a pre-determined date or dates, or (ii) where the security provides the holder with a right to convert or exchange the security for the underlying interest or to purchase the underlying interest;
  - (d) "Eligible Issuer", for the purpose of Articles 4.4(c) and 7.3(a), means an issuer of a security which is, or which comprises a component of, the underlying interest that either (i) has its securities listed on a Canadian or U.S. stock exchange or other stock exchange acceptable to the securities regulatory authorities or (ii) is a reporting issuer in each Canadian jurisdiction in which the prospectus is being filed or (iii) is subject to continuous disclosure obligations acceptable to securities

regulatory authorities and has a public information record which is reasonably accessible to investors;

- (e) "Exercise Price" or "Strike Price" means the market price, value or level of the underlying interest from which the increase or decrease in the market price, value or level of the underlying interest is measured in order to calculate the Settlement Value;
- (f) "Extraordinary Event" means an event, circumstance or cause beyond the reasonable control of the issuer or any joint venturer, guarantor, hedge counterparty, hedge manager or adviser with respect to the offering of Warrants or an insider, associate or affiliate thereof, which gives the issuer the right to postpone valuation of or payment on exercised Warrants or to terminate the Warrants prior to the expiration date;
- (g) "hedge" means, with respect to an issuer of Warrants, a position or positions in securities or other instruments taken by the issuer to offset or meet its liability to holders of the Warrants being offered;
- (h) "Independent" means a person or company that is not the issuer of the Warrants or of the underlying interest thereof and that is not a joint venturer, guarantor, hedge counterparty, hedge manager or adviser with respect to the offering of such securities or an insider, associate or affiliate thereof;
- (i) "Issue Price" means the price at which the Warrants are offered under the prospectus;
- (j) "Policy" means this National Policy Statement including the appendix attached hereto;
- (k) "POP System" means the prompt offering qualification system established pursuant to the laws or policies of a province or territory for the distribution by or on behalf of an issuer or selling security holder of securities of an issuer by means of a short form prospectus;
- (l) "preliminary prospectus" means a preliminary prospectus or a preliminary short form prospectus;
- (m) "prospectus" means a prospectus or a short form prospectus;
- (n) "Restricted Shares" means shares which carry a residual right to participate to an unlimited degree in earnings of the issuer of such shares and in its assets upon liquidation or winding-up but which either (i) do not have voting rights exercisable in all circumstances or (ii) have voting rights which are less than, on a per share basis, voting rights attaching to any other shares of an outstanding class of shares of the issuer;
- (o) "securities regulatory authorities" means the securities commission or similar regulatory authority in each province or territory in which the prospectus is or will be filed and any reference to the "Canadian securities regulatory authorities" means the securities commission or similar regulatory authority in each province and territory;

- (p) "Settlement Value" means an amount, in cash, that a Warrantholder is entitled to receive and the issuer is obligated to pay upon the exercise of a Warrant;
- (q) "Standard Prospectus Form" means the form of prospectus required to be filed in connection with an offering of securities by an industrial, finance or natural resource issuer or by an issuer utilizing the POP System pursuant to the laws of a province or territory;
- (r) "TCO" means Trans Canada Options Inc.;
- (s) "underlying interest" means securities, financial instruments or commodities (including financial or other benchmarks such as a stock index or basket, or foreign exchange rates) which are the underlying subject matter of a Warrant but for the purposes of this Policy does not include securities of the issuer of the Warrant or of any affiliate thereof; and
- (t) "Warrants" mean:
  - (i) put and call options, other than options issued by a clearing corporation, the value of which is based upon the market price, value or level of one or more underlying interests; and
  - (ii) debt-like securities (as defined in Article 1.1(c) and interpreted in Articles 1.2 to 1.5) which, as of the date of the prospectus, include as a substantial component either an obligation to pay to the holder a contingent amount based on the appreciation or depreciation in the market price, value or level of one or more underlying interests on a pre-determined date or dates or a right to convert or exchange the security for the underlying interest or to purchase the underlying interest.

## Interpretation

### 1.2 Debt-like securities typically include one of the following features:

- (a) principal is repaid; however, payment of interest is linked by formula to an index or some other underlying interest, or, instead of receipt of interest, investors have an option to convert into, exchange for or purchase an underlying interest; or
- (b) a market rate of interest is paid; however, repayment of principal is linked by formula to an index or some other underlying interest or, in lieu of repayment of some or all of the principal, investors have an option to convert into, exchange for or purchase an underlying interest.

### 1.3 The "substantial component" test in Article 1.1(t)(ii) is intended to determine whether a debt-like security is subject to the provisions of this Policy. A component of a debt-like security which compensates holders based on the appreciation or depreciation of the market price, value or level of an underlying interest is not substantial for purposes of Article 1.1(t)(ii) if it accounts for 20 percent or less of the value of the debt-like security on the date of the prospectus. In assessing whether or not a component which accounts for more than 20 percent but less than 25 percent of the value of the debt-like security on the date of the prospectus is substantial, issuers should have regard to factors such as the frequency and magnitude of the expected movement in the market price or value of the debt-like security. If the component accounts for 25 percent or more of the value of the

debt-like security on the date of the prospectus, it will constitute a substantial component for purposes of Article 1.1(t)(ii).

- 1.4 If the component of a debt-like security which compensates holders based on the appreciation or depreciation of the market price, value or level of an underlying interest is not substantial for purposes of Article 1.1(t)(ii) but is a "material component" of the debt-like security as of the date of the prospectus, the issuer should consult with the appropriate securities regulatory authorities.
- 1.5 Debt-like securities in many respects resemble debt securities which have been exempted by statute from prospectus and registration requirements. In the view of the Canadian securities regulatory authorities, the prospectus and registration exemptions which exist for debt securities are based on the essentially risk-free nature of debt instruments. In addition, the Canadian securities regulatory authorities view debt-like securities as being comprised of a debt instrument and an embedded or detachable option. Therefore, due to the complexity and nature of debt-like securities, issuers of debt-like securities which are Warrants may not rely upon the prospectus or registration exemptions for debt securities and must proceed by way of prospectus or, in the circumstances set out in Article 1.6, by offering circular and must be made through a registered dealer. Trades in debt-like securities may, however, be made in reliance on other prospectus, and where available, registration exemptions such as the private placement exemptions.
- 1.6 Federal and provincial government issuers are permitted to issue debt-like securities which are Warrants using an offering circular provided that (i) contractual rights of action which reasonably correspond to statutory rights and defences available under applicable securities legislation on a distribution by prospectus (other than rights against the issuer, its chief executive officer, chief financial officer and directors) are provided to investors, (ii) the offering otherwise complies with this Policy, (iii) the disclosure in the offering circular is approved by the securities regulatory authorities and (iv) a copy of the offering circular approved by the securities regulatory authorities must be delivered to each prospective purchaser.
- 1.7 For greater certainty, capital shares, meaning shares in a corporation which entitle the holder to receive an amount based on all or part of the appreciation in the market price of an underlying equity security (which together with shares that entitle the holder to receive an amount based on the dividends on the same underlying equity security are commonly referred to as "subdivided equity offerings"), are not Warrants.
- 1.8 Where this Policy contemplates that action may not be taken without the approval of the securities regulatory authorities, such approval shall, unless otherwise expressly provided, be considered to be given if a receipt for the prospectus is issued in each jurisdiction in which the offering is being made.

## ARTICLE TWO

### Review Procedures

#### General

- 2.1 The prospectus review procedures described in Article 2 of this Policy have been adopted in recognition of the market timing sensitivity of certain offerings of Warrants and the proprietary nature of novel and innovative securities.

- 2.2 Preliminary prospectuses and supporting materials relating to offerings of Warrants are to be filed in accordance with the prospectus review and clearance procedures described in either (i) part 1 of National Policy Statement No. 1 or (ii) part 1 of National Policy Statement No. 1 as modified by Articles 2.7 to 2.12 of this Policy or (iii) part 1 of National Policy Statement No. 1 as modified by Articles 2.13 to 2.20 of this Policy. An issuer should communicate to the securities regulatory authorities at the time of filing the preliminary prospectus which of these review procedures it has elected to use.
- 2.3 In order to shorten the review period, it is suggested that issuer's counsel raise any significant novel issues not addressed by this Policy, on a confidential basis, with the securities regulatory authorities in writing prior to filing a preliminary prospectus.
- 2.4 Although the POP System is designed to abridge the review period for reporting issuers who meet specified financial requirements and who have filed an acceptable annual information form, the distinction between issuers eligible to use the POP System and issuers not eligible to use the POP System is not relevant to a determination of the appropriate review period for prospectuses qualifying Warrants for distribution. To qualify these securities for distribution, a prospectus must, in addition to issuer specific disclosure, provide disclosure regarding the underlying interest on which the value of the Warrants is based together with disclosure of the mechanics, terms and conditions of the Warrants. Normally, this disclosure does not relate to the issuer. Accordingly, an issuer of Warrants is not eligible to use the review procedures under the POP System for this type of offering.
- 2.5 In the case of issuers which are regulated financial institutions, such as Canadian chartered banks, it is the practice of certain securities regulatory authorities to require confirmation from the issuer that the issuer's principal regulator has been notified of the proposed offering.
- 2.6 All novel underlying interests (as defined in Article 4.1) must be approved by the securities regulatory authorities in accordance with Article 4 prior to filing the preliminary prospectus.

#### Confidential Review Procedure

##### Eligibility

- 2.7 An unexecuted preliminary prospectus that complies with the requirements of this Policy may be submitted to the securities regulatory authorities on a confidential basis provided that it is accompanied by a resolution of the board of directors of the issuer authorizing such action and by a letter from a registered dealer indicating it is prepared to act as an underwriter of the securities to be offered.

##### Filing Procedure

- 2.8 Prospectuses submitted under the confidential review procedure will be reviewed by the securities regulatory authority in the principal jurisdiction who will use its best efforts to issue a confidential comment letter within ten business days following the delivery to the principal jurisdiction of the unexecuted confidential preliminary prospectus.
- 2.9 If the issuer elects to use the confidential review procedures set out in this Policy, the securities regulatory authority in the principal jurisdiction will send a copy of the confidential comment letter to the other securities regulatory authorities at the time it issues the confidential comment letter to the issuer. The securities regulatory authorities

in these jurisdictions will use their best efforts to send their confidential comments directly to the issuer (with a copy of such comments to the principal jurisdiction) within five business days of receipt of the confidential comment letter. If the securities regulatory authority in the principal jurisdiction receives no comments from a securities regulatory authority in any other jurisdiction within five business days of receipt of the confidential comment letter, it will generally contact the other jurisdiction and enquire as to the status of its response. Each of the other jurisdictions will advise the principal jurisdiction when it is satisfied with the issuer's response to its comments.

- 2.10 Once the comments contained in the confidential comment letter or letters have been resolved, the issuer may file executed copies of a preliminary prospectus. Upon the issuance of a receipt for the preliminary prospectus, the securities administrator in the principal jurisdiction will send to the issuer written confirmation that, other than comments which result from material changes following the issuance of the receipt, each of the securities regulatory authorities that issued a receipt will have no additional comments.
- 2.11 The prospectus together with supporting final materials may not be filed in any jurisdiction prior to the expiration of any "waiting period" prescribed by applicable securities legislation in that or any other jurisdiction.
- 2.12 A final receipt for a prospectus filed under the review procedures described in this section of the Policy will not be issued by the securities regulatory authorities prior to the expiration of any "waiting period" prescribed by applicable securities legislation since this period is necessary for the market and analysts to assess these novel securities.

#### Expedited Review Procedure

#### Eligibility

- 2.13 A preliminary prospectus or, if applicable, an offering circular for an offering of Warrants may be filed in accordance with the expedited review procedures described in Articles 2.18 to 2.20 provided that the following conditions are satisfied:
  - A. unless the securities being offered are Warrants of the type defined in Article 1.1(t)(i) and the underlying interest of such Warrants is held solely for the benefit of the Warrantheolders using trust or other custodial arrangements satisfactory to the securities regulatory authorities, the issuer must have distributed its securities by prospectus or, if applicable, by offering circular within the last 12 months and the preliminary prospectus or offering circular must include substantially similar issuer specific disclosure as the issuer's most recently received prospectus or approved offering circular;
  - B. the underlying interest of the Warrants must be virtually the same as the underlying interest of Warrants previously distributed by a prospectus, or, if applicable, by an offering circular, of any issuer;
  - C. the preliminary prospectus or offering circular must include disclosure related to the underlying interest of the Warrant that is virtually the same as the disclosure concerning the same underlying interest in the most recent prospectus or, if applicable, offering circular by any issuer of Warrants (the "Previously Received Prospectus"); and
  - D. the preliminary prospectus or offering circular must include disclosure related to the terms, conditions and mechanics of the Warrants that is virtually the same as



disclosure relating to the terms, conditions and mechanics of the Warrants offered under the Previously Received Prospectus.

- 2.14 Each of the previously filed prospectuses or, if applicable, offering circulars described in Article 2.13 must have been received in each jurisdiction in which the new offering is being made (an "Offering Jurisdiction"). If this requirement is not satisfied, the securities regulatory authority in each Offering Jurisdiction in which the previous offering was not made must agree to the use of the expedited review procedure prior to the filing of the preliminary prospectus or the delivery of the offering circular in that jurisdiction under the expedited review procedure.
- 2.15 A previously filed preliminary prospectus or, if applicable, offering circular, relating to an offering of Warrants, which was in a form satisfactory to the securities regulatory authorities in any jurisdiction but was withdrawn prior to filing a prospectus may, with the approval of the securities regulatory authorities in each Offering Jurisdiction, satisfy the requirements in Article 2.13 (a) or qualify as a Previously Received Prospectus for purposes of the requirements in Articles 2.13(c) and (d).
- 2.16 A preliminary prospectus or, if applicable, offering circular which complies with the conditions described in Articles 2.13 and 2.14 may include additional disclosure provided that the securities regulatory authorities approve the additional disclosure prior to the filing of the preliminary prospectus or delivery of the offering circular.
- 2.17 If, in the opinion of a securities administrator in an Offering Jurisdiction, the preliminary prospectus or offering circular does not satisfy the eligibility criteria in Article 2.13, the securities regulatory authority will promptly notify the issuer in writing that the expedited review procedures will not be available in that jurisdiction.

#### Filing Procedure

- 2.18 The issuer must file a copy of each prospectus referred to in Articles 2.13 (a) and 2.13 (c) (collectively the "Applicable Prospectuses") together with a preliminary prospectus relating to the new offering of Warrants marked to show any additions, deletions or other changes which have been made. The preliminary prospectus must be accompanied by a certificate or certificates of an officer of the issuer or its agent, which certificates should, alone or together, refer to the entire preliminary prospectus and confirm that the markings accurately indicate the relationship between the content of the newly filed preliminary prospectus and the Applicable Prospectuses.
- 2.19 The expedited review procedures are the same as those set out in National Policy Statement No. 1 except that: (i) the securities regulatory authority in the principal jurisdiction will use its best efforts to issue a first comment letter within three business days following the day on which the preliminary prospectus is filed with the principal jurisdiction, (ii) the securities regulatory authorities in other jurisdictions will use their best efforts to send their comments directly to the issuer (with a copy of such comments to the principal jurisdiction) within two business days of receipt of the first comment letter, and (iii) in the event that the securities regulatory authority in the principal jurisdiction receives no comments from the securities regulatory authorities in any other jurisdiction within two business days of receipt of the first comment letter, it will be assumed that such jurisdiction will accept the filing of the prospectus in final form.
- 2.20 The securities regulatory authorities may, where appropriate, issue a final receipt for a prospectus prior to the expiration of the waiting period prescribed by applicable securities legislation.

## ARTICLE THREE

### Post Receipt Procedures

### PREP Procedures

#### Eligibility

- 3.1 The securities regulatory authorities have determined that the procedures established by National Policy Statement No. 44 for pricing offerings after the prospectus is receipted (the "PREP Procedures") may, subject to the modifications described in Article 3.2 of this Policy, be used by any issuer of Warrants notwithstanding the eligibility criteria and the special considerations applicable to derivative securities set out in National Policy Statement No. 44.

#### Pricing Information

- 3.2 The PREP Procedures permit an issuer to omit certain information, including pricing information, from a prospectus. The Canadian securities regulatory authorities have determined that all pricing information (ie. the Issue Price, Exercise Price and Breakeven Point) may be omitted from a prospectus offering of Warrants provided that a supplemented prospectus with the disclosure required by Item 12.4 of the Appendix is filed in accordance with the PREP Procedures set out in National Policy Statement No. 44.

#### Best Efforts Offerings

- 3.3 In order to hedge the issuer's risk with respect to its Warrants, an issuer will normally establish the Exercise Price at the time the hedging arrangements become effective. In many offerings of Warrants a proper hedge cannot be economically arranged until the issuer determines the size of the Warrant offering, which, in the case of "best efforts" offerings, is usually as of a date subsequent to the date of the final prospectus when the amount of the offering which has been sold is determined. Accordingly, if Warrants are offered on a best efforts basis, the specific Exercise Price may be established on a date following the date of the final prospectus provided that the formula that will be used to determine the specific Exercise Price (e.g. a specified amount more or less than the spot price of the underlying interest at a specified time), together with the other disclosure required by Items 12.2 and 12.3 of the Appendix is included in the final prospectus.

## ARTICLE FOUR

### Underlying Interest Requirements

#### Approval of Underlying Interests

#### Need for Approval

- 4.1 All novel underlying interests must be approved in writing by the securities regulatory authorities. Novel underlying interests are those which have not been the underlying interest of a receipted prospectus or, if applicable, offering circular for a Canadian offering of Warrants in each jurisdiction in which the offering is being made or have not been an underlying interest of a Canadian or U.S. exchange-traded clearing corporation option, futures contract or option on a futures contract. Note, however, that previously

approved underlying interests which no longer satisfy the requirements of Article 4.4, or which have been materially revised, or for which an alternative method of calculating the market price, value or level is proposed, or which are aggregated with other interests to comprise a new underlying interest, will require new approval.

- 4.2 Novel underlying interests must be approved by the securities regulatory authority in each jurisdiction in which the offering is being made prior to the filing of the preliminary prospectus either through confidential consultation with the securities regulatory authorities or through the use of the confidential review procedures set out in Articles 2.7 to 2.12. If approval for a novel underlying interest is sought using the confidential review procedures, the time periods set out in Article 2.9 may be increased notwithstanding the best efforts of securities regulatory authorities.
- 4.3 With respect to approved or previously approved underlying interests, issuers must confirm in writing to the securities regulatory authorities that on the date of the preliminary prospectus the underlying interest has not been materially revised and continues to comply with the requirements of Article 4.4.

#### Minimum Criteria for Approval

- 4.4 Novel underlying interests will not normally be approved unless the issuer provides the securities regulatory authorities with the information in Items 10.1 (a), (c), (d), (e), (f), (g), (h), (j), (k) and (l) of the Appendix, the content of such information is satisfactory to the securities regulatory authorities and:
- (a) the underlying interest, or, in the case of an index, the components of the underlying interest, are visible and liquid;
  - (b) the market price, value or level of the underlying interest is (i) easily and objectively determinable, and (ii) published regularly in an English and a French language newspaper of general circulation in Canada or made available to Warrant holders on request, without charge, at the Canadian head office of the issuer (or the issuer's agent);
  - (c) the issuers of each underlying security or of each component security of an underlying index are Eligible Issuers;
  - (d) with respect to any single security which is the underlying interest of a Warrant, or accounts for 5 per cent or more of the value of the underlying interest on the date of the application for approval of the underlying interest, then either (i) the security is TCO "options approved"<sup>3</sup>

<sup>3</sup>The current requirements to be satisfied for shares to be TCO "options approved" are (i) the shares must be listed on a Canadian exchange for at least 12 months, (ii) the issuer must have a market capitalization of \$100,000,000 or more (equity and preference shares), (iii) the market price per share must be at least \$5 and (iv) there must be at least 1,000 shareholders and 3,600,000 publicly held shares.,

(ii) options on the security have been approved for listing by a U.S. options exchange recognized by the U.S. Securities and Exchange Commission<sup>4</sup>

<sup>4</sup>The current requirements for equity options on U.S. options exchanges are:

- (i) the shares must be listed on a U.S. stock exchange;

- (ii) a minimum of 7,000,000 publicly held shares;
- (iii) a minimum of 2,000 shareholders;
- (iv) trading volume of at least 2,400,000 shares in the last 12 months; and
- (v) the market price per share shall have been at least \$7.50 for the majority of the business days during the last three calendar months.

or (iii) the securities regulatory authorities determine that the security is otherwise acceptable for this purpose; and

- (e) such approval is not otherwise contrary to the public interest.

## ARTICLE FIVE

### Issuer Requirements

#### Minimum Working Capital and Net Assets

5.1 Unless the underlying interest is held by the issuer for the sole benefit of Warrantholders using trust or other custodial arrangements satisfactory to securities regulatory authorities, one of the following requirements must be satisfied:

- (a) an issuer of Warrants must (i) maintain at all times, from the date of closing until there are no Warrants outstanding, working capital equal to at least \$10,000,000 and (ii) have at the date of closing net assets of at least \$10,000,000; or
- (b) all of the obligations of the issuer, including its obligations under the Warrants, must be unconditionally guaranteed by an entity which satisfies the working capital and net asset thresholds in Article 5.1(a).

For the purposes of Article 5.1(b) support, loan or other arrangements, all of which must be satisfactory to securities regulatory authorities, may be used to satisfy the requirement for an unconditional guaranty. In addition, the entity providing the support, loan or other arrangements must comply with the provisions of this Policy applicable to guarantors.

#### Hedging

5.2 It is required that the greatest reasonably foreseeable liability which may arise under the Warrants, net of the hedge (if any), would not have a material adverse effect on the ability of the issuer and, if applicable, the guarantor to satisfy all of its obligations as of the date of filing the prospectus. In determining the extent to which any hedge arrangements reduce the reasonably foreseeable liability under the Warrants, issuers must have regard for the credit quality of the hedge counterparty and/or the hedging expertise of the hedge manager. (See Item 7 of the Appendix for a description of the requirements relating to hedge disclosure).

## ARTICLE SIX

### Warrant Mechanics

#### Calculation Expert

6.1 All material calculations and discretionary adjustments and substitutions relating to Warrants other than those calculations which may be made by the issuer in accordance with Article 6.4, must be made or confirmed by a Calculation Expert and must be made

available upon request, without charge, to all Warrantholders at the Canadian head office of the issuer.

- 6.2 If the identity and qualifications of the Calculation Expert are not disclosed in the prospectus, the issuer must, promptly following the appointment of the Calculation Expert, issue a press release in accordance with Article 7.1(a), publish or deliver notice in accordance with Article 7.1(c) and file forthwith copies of the press release and notice with the securities regulatory authorities. The notice and press release must disclose:
- (a) the identity and qualifications of the Calculation Expert;
  - (b) any past, present or anticipated relationships between the Calculation Expert and the issuer; and
  - (c) that calculations, determinations and confirmations made by the Calculation Expert will be available to Warrantholders on request, without charge, at the Canadian head office of the issuer. (See Item 11 of the Appendix for a description of the disclosure requirements relating to the Calculation Expert).

#### Adjustments to and Calculation of the Underlying Interest

- 6.3 Adjustments to, or the substitution or calculation of, an underlying interest must be made in accordance with the following requirements:
- (a) adjustments to an underlying interest must be made on the occurrence of any event materially affecting a component of the underlying interest such as a stock split, consolidation, stock dividend, amalgamation or the addition, substitution or deletion of a component of the underlying interest;
  - (b) any of the adjustments to the underlying interest referred to in Article 6.3(a) must result in the market price, value or level of the underlying interest remaining the same as the market price, value or level of the underlying interest immediately prior to the occurrence of the event which gave rise to the adjustment; and
  - (c) any discretion to adjust or substitute for or calculate the market price, value or level of the underlying interest is either the same as the adjustment or substitution to that underlying interest made by TCO or another Independent party acceptable to the securities regulatory authorities or is made by or is subject to the approval of a Calculation Expert.

#### Settlement Value of Warrants

- 6.4 The issuer or an agent of the issuer may calculate the Settlement Value according to the arithmetic formula disclosed in the prospectus in all circumstances other than those referred to in Articles 6.5(b) and (c), 6.18 (c) and 6.18 (d)(iii) and (iv).
- 6.5 If a component of the arithmetic formula used to calculate the Settlement Value (typically the market price or level of the underlying interest) is not available and:
- (a) an alternative or proxy for that component of the formula has been pre-established by having been clearly disclosed in the prospectus ("pre-established"), and it is available, then such alternative or proxy must be substituted in the formula used to calculate the Settlement Value;

- (b) if there is no pre-established alternative or proxy for that component of the formula or if the Calculation Expert confirms a determination by the issuer that the pre-established alternative or proxy is not available, or if the Calculation Expert confirms that the pre-established alternative or proxy is not quoted at a price or level which represents the fair value or level, the issuer must have the Calculation Expert determine an alternative or proxy for that component or a fair value or level for such component which shall be substituted in the formula used to calculate the Settlement Value; and
- (c) if the Calculation Expert in the circumstances described in Article 6.5(b) is unable to determine an alternative or proxy or fair value or level for such component, then (i) if such component is not a material component of the formula, the issuer must require the Calculation Expert to determine the fair value of the Warrants and; (ii) if such component is a material component of the formula, the issuer must declare an Extraordinary Event.

6.6 Settlement Value may not be reduced by costs, extraordinary or otherwise, incurred by the issuer, guarantor, joint venturer, hedge counterparty or hedge manager or an insider, associate or affiliate thereof. (See Item 12.8 of the Appendix for a description of the disclosure requirements relating to Settlement Value).

#### Physical Settlement

- 6.7 If a Warrant offering includes a physical settlement feature which may result in Warrantheolders making or taking delivery of the underlying interest, the following requirements must be satisfied:
- (a) the market for the underlying interest or, in the case of an underlying interest which has more than one component such as an index, the market for the components of the underlying interest must be accessible to holders of the minimum number of Warrants required to exercise for physical settlement;
  - (b) there may not be a significant delay between the date of exercise and the earliest date Warrantheolders take or may make delivery of the underlying interest;
  - (c) on any exercise date on or following the final valuation date, holders must be permitted to cash settle if they hold less than the minimum number of Warrants required to exercise for physical delivery; and
  - (d) on any early termination of the Warrants by the issuer, holders must be permitted to cash settle.

Where this Policy contemplates cash settlement of Warrants, issuers of physical settlement Warrants should comply or should consult with the securities regulatory authorities.

(See Item 12.9 of the Appendix for a description of the disclosure requirements relating to Physical Settlement).

#### Minimum Exercise

- 6.8 The minimum number of Warrants a Warrantheolder may exercise must not be greater than the minimum number that may be purchased. On any early termination of the Warrants by the issuer, or on any exercise date on or following the final valuation date,

there cannot be a minimum number of Warrants required to exercise. (See Item 12.10 of the Appendix for a description of the disclosure requirements relating to Minimum Exercise.)

#### Delay Between Exercise and Valuation

- 6.9 If valuation of any Warrants exercised on a particular date is delayed, a Warrantholder must receive an explanation of the delay on the settlement date.
- 6.10 If in any circumstance, including the invocation of maximum exercise provisions as described in Item 12.11 of the Appendix, the delay between the latest date on which Warrant exercise notices may be tendered and the date such Warrants are valued is greater than one business day, Warrantholders who have tendered exercise notices may revoke such exercise notices at any time prior to notification of the valuation of the exercised Warrants. The Canadian securities regulatory authorities recognize that it may not be possible for the issuer of a Warrant based on a foreign underlying interest to determine the Settlement Value and unwind its hedge of the Warrants within one day of exercise notices being tendered due to international time zone differences. In these and other circumstances where the issuer is not able to unwind its hedge in this time frame, the maximum period of delay may, with the permission of the securities regulatory authorities, be extended. (See Item 12.12 of the Appendix for a description of the disclosure requirements relating to Delay Between Exercise and Valuation).

#### Early Termination

- 6.11 Offerings of Warrants may, with the approval of the securities regulatory authorities, include a feature which gives the issuer the discretion to terminate Warrants prior to the expiration date in circumstances other than those described in Article 6.18(c).
- 6.12 Promptly following an election by the issuer to terminate the Warrants pursuant to Article 6.11, it must issue a press release in accordance with Article 7.1(a), publish or deliver a notice in accordance with Article 7.1(c) and file forthwith copies of the press release and notice with the securities regulatory authorities. The press release and notice must include the date of termination and a statement that the amount payable to holders of Warrants will be distributed to registered holders of the Warrants. (See Items 12.13 and 12.15 of the Appendix for a description of the disclosure requirements related to Early Termination).

#### Automatic Exercise at Maturity

- 6.13 If the Warrants have a positive Settlement Value at the close of trading on the expiration date, then all outstanding Warrants must be automatically exercised and the Settlement Value must be calculated as of the expiration date. However, if an Extraordinary Event is continuing on the expiration date, the Settlement Value must be determined in accordance with Article 6.18(d). An amount equal to the Settlement Value of any unexercised Warrants must be distributed to the registered holders of the Warrants. (See Item 12.14 of the Appendix for a description of the disclosure requirements with respect to Automatic Exercise).

#### Form

- 6.14 Warrants must be in registered form and may be eligible for deposit and settlement through the book-based system of Canadian clearing agencies, such as the Canadian Depository for Securities Limited or the West Canada Depository Trust Company.

## Permitted Extraordinary Events

- 6.15 All circumstances in which the rights of the Warrantholders may be suspended must be reasonable and must be clearly explained. The following are examples of Extraordinary Event provisions which are acceptable to the securities regulatory authorities. Issuers should note, however, that the securities regulatory authorities will consider the ways in which an Extraordinary Event provision affects other terms and conditions of the Warrants before approving a particular Extraordinary Event provision.
- (a) An event which has a material adverse effect on the issuer's hedge of its liability under the Warrants or, if the issuer is dynamically hedged, an event which has a material adverse effect on the ability of the issuer to hedge its liability under the Warrants; these events may occur, for example, upon a suspension or material limitation of trading in the underlying interest of the Warrant or in trading in futures or options on the underlying interest of the Warrant.
  - (b) An event which materially impairs the ability of the issuer to determine the Settlement Value of the Warrants, which may arise upon the occurrence of the events described in Article 6.5 (c).
- 6.16 The securities regulatory authorities recognize that future offerings of Warrants may appropriately include Extraordinary Events which differ from the provisions in Articles 6.15 (a) and (b). In such circumstances, issuers should consult with the securities regulatory authorities on a pre-filing basis.
- 6.17 Examples of events which are not acceptable Extraordinary Events include:
- 1. any credit event of the issuer, guarantor or hedge counterparty, whether or not the event affects the issuer's or guarantor's hedge of its Warrant obligations or its ability to make payment on the Warrants; or
  - 2. the issuer incurring unanticipated costs in hedging its liability under the Warrants.

## Rules Respecting Extraordinary Events

- 6.18 The following requirements, or such variations thereof as the securities regulatory authorities may permit, must be satisfied if the Warrants are to include Extraordinary Event provisions:
- (a) Any determination by the issuer that an Extraordinary Event has occurred, is continuing or has ceased shall be confirmed by the Calculation Expert and the issuer must promptly issue a press release in accordance with Article 7.1(a), deliver or publish a notice in accordance with Article 7.1(c) and file forthwith copies of the press release and notice with the securities regulatory authorities. The notice and press release must include the reason for the occurrence or cessation of the Extraordinary Event and the information with respect to the Calculation Expert which is required by Article 6.2.
  - (b) Warrantholders must be permitted to tender exercise notices while an Extraordinary Event is continuing. Such Warrant exercises, as well as previously tendered Warrant exercises not valued prior to the declaration of the Extraordinary Event, shall be valued as soon as possible following the determination by the issuer and confirmation by the Calculation Expert that the



Extraordinary Event has ceased. Notwithstanding the provisions of Article 6.10, all Warrantholders may revoke their exercise notices at any time while an Extraordinary Event is continuing.

- (c) Other than as provided in Article 6.11, the issuer may only elect to terminate the Warrants if (i) such election is made on a business day on or following the declaration and prior to the cessation of an Extraordinary Event, (ii) the issuer pays to the Warrantholders Settlement Value, calculated as of the last full trading day before the termination of the Warrants, in accordance with Articles 6.4, 6.5 and 6.6, (iii) the issuer also pays to Warrantholders time value calculated by the Calculation Expert as of the last full trading day before the termination of the Warrants (which may be reduced based on the likelihood of the Extraordinary Event continuing for all or part of the remaining term of the Warrants), and (iv) a press release and notice, which each include the reasons for early termination, the date of termination, the information with respect to the Calculation Expert required under Article 6.2 and a statement that the amount payable to holders of Warrants will be distributed to the registered holders of the Warrants, are issued and filed in accordance with Articles 7.1(a), (c) and (d).

If an Extraordinary Event continues to the expiration date of the Warrants, all outstanding Warrants must be automatically exercised and Settlement Value shall be calculated as of the earlier of the date on which the Extraordinary Event ceases and the tenth business day following the expiration date as follows:

- (i) using the original arithmetic formula used to determine the Settlement Value;
- (ii) if a component of the arithmetic formula (usually the market price or level of the underlying interest) is not available but an alternative or proxy for that component of the formula has been pre-established by having been disclosed in the prospectus, and it is available, then such alternative or proxy must be substituted in the formula used to calculate the Settlement Value;
- (iii) if there is no pre-established alternative or proxy for that component of the formula or if the Calculation Expert confirms a determination by the issuer that the pre-established alternative or proxy is not available, or if the Calculation Expert confirms that the pre-established alternative or proxy is not quoted at a price or level which represents the fair market value or level, the issuer must have the Calculation Expert determine a fair value or level for such component which shall be substituted in the formula used to calculate the Settlement Value; and
- (iv) if the Calculation Expert is unable to determine a fair value or level for such component, then the issuer must nevertheless have the Calculation Expert use its best efforts to determine the fair value for the Warrants as soon as practicable.

## ARTICLE SEVEN

### Continuous Disclosure

### Changes Related to the Warrants

- 7.1 The issuer must promptly:
- (a) issue a press release describing all changes (other than changes in the market price, value or level of the Warrants or the underlying interest) which significantly affect, or could reasonably be expected to have a significant effect on the Warrants such as the appointment of a Calculation Expert, early termination of the Warrants, valuations determined or confirmed by the Calculation Expert, delay in valuation of exercised Warrants and the declaration of the occurrence or cessation of an Extraordinary Event;
  - (b) where the underlying interest is an index, issue a press release describing (i) adjustments to the index, (ii) changes in the formula or method of calculating the index, or (iii) other such changes, any of which significantly affect, or could reasonably be expected to have a significant effect on the Warrants;
  - (c) either publish a notice describing changes or facts referred to in Articles 7.1(a) or 7.1(b) in daily English and French language newspapers with general circulation in major cities in Canada or deliver such a notice in the English and French languages to registered Warrantheolders; and
  - (d) file forthwith with the securities regulatory authorities copies of the press release and notice.

#### Continuous Disclosure of the Issuer of the Warrants

- 7.2 An issuer of Warrants is not obliged to deliver its interim and annual financial statements to holders of its Warrants but is obligated to make such statements available to holders of its Warrants on request, without charge, from the Canadian head office of the issuer.

#### Continuous Disclosure of Underlying Issuers

- 7.3 In circumstances in which the underlying interest of a Warrant is or includes as a material component a security of another issuer, continuous disclosure with respect to the business and affairs of the issuer of the underlying security is material to holders of the Warrants. In order to ensure that adequate continuous disclosure regarding the affairs of the issuer of the underlying security is made and is available to Warrantheolders:
- (a) the issuer of each underlying security must be an Eligible Issuer;
  - (b) the issuer of the Warrant must, throughout the term of the Warrants, make available on request, without charge, from the Canadian head office of the issuer of the Warrants, all interim and annual financial statements and the management discussion and analysis of the issuer of any underlying security which accounts for 20 percent or more of the value of the underlying interest on the date of the prospectus.

#### Continuous Disclosure of the Guarantor

- 7.4 If the guarantor of the Warrants is not a reporting issuer in each jurisdiction in which the Warrants are being offered, it must undertake to the appropriate securities regulatory authorities that, for the term of the guarantee, it will make available to holders of the Warrants on request, without charge, and file with securities regulatory authorities, continuous disclosure materials with respect to its business and affairs as if it were a reporting issuer in each jurisdiction.

## Continuous Disclosure of Sovereign Issuers or Guarantors

- 7.5 If the issuer or guarantor of Warrants is the government of Canada or of any province or territory of Canada, the issuer or guarantor is exempt from the requirements to deliver and file interim and annual financial statements and management discussion and analysis and to file the annual information form. If the issuer or guarantor is the government of any foreign country, then upon an application being made to the securities regulatory authorities, the issuer or guarantor may be exempted from certain continuous disclosure requirements.

## ARTICLE EIGHT

### Warrant Short Form Prospectuses

- 8.1 Reporting issuers eligible to use the POP System which file a preliminary short form prospectus relating to a distribution of Warrants shall comply with this Policy (other than Items 4.2 to 4.5, 4.7; 5.1 to 5.13; 6.1 to 6.7, 9.1 and 21 of the Appendix) and the requirements of the POP System as modified by Articles 8.2 and 8.3.
- 8.2 Except as provided in Article 8.3, issuers eligible to use the POP System are not required to comply with the form of prospectus prescribed under the POP System.
- 8.3 With respect to offerings of debt-like securities, the form of prospectus prescribed under the POP System must be complied with in respect of the portion of the security which is not linked to an underlying interest.

## ARTICLE NINE

### Liquidity Requirement

- 9.1 Warrants must be listed on a Canadian stock exchange unless the issuer satisfies the securities regulatory authorities that satisfactory market-making obligations have been undertaken by a registered dealer. Issuers must provide the securities regulatory authorities with a copy of the listing exchange's conditional listing approval as soon as possible following receipt of such approval from the listing exchange.
- 9.2 If listed Warrants are delisted due to insufficient liquidity resulting in significant part from purchases by the issuer or its affiliates, or, if applicable, any joint-venturer of the issuer with respect to the Warrants, then unless the issuer satisfies the securities regulatory authorities that adequate continuing market making arrangements have been made, the issuer must bid for all outstanding Warrants at a price equal to their fair value as determined by a Calculation Expert.

## ARTICLE TEN

### Eligibility of Investors and Secondary Market Disclosure

- 10.1 Retail investors who wish to trade in Warrants must have an account approved to trade Recognized Market Options (ie. clearing corporation options).

## ARTICLE ELEVEN

### Proficiency of Registered Salespersons

- 11.1 Any person trading in and/or rendering advice with respect to Warrants as a salesperson, partner or officer of a dealer or as an adviser must have successfully completed the Canadian Options Course or must have successfully completed an alternative education program acceptable to the securities regulatory authorities.

## ARTICLE TWELVE

### Margined Transactions in Warrants

- 12.1 Other than debt-like securities, Warrants may not be purchased on margin. Debt-like securities may be purchased on margin if, on the date of issue, the component which is linked to an underlying interest accounts for less than 50 percent of the value of the debt-like security.

## APPENDIX TO NATIONAL POLICY STATEMENT NO. 46

### PROSPECTUS DISCLOSURE

#### Item One - Terminology

- 1.1 Unless the subject matter or the context otherwise requires, the definitions in Article 1(a), (b), (e), (f), (g), (h), (i), (p) and (s) of this Policy must be used in prospectuses offering Warrants and these definitions must be disclosed in a separate section of the prospectus.

#### Item Two - Face Page

##### Issue Date, Expiration Date and Exercise Period

- 2.1 State the issue date, expiration date and the date, dates or period on or during which the Warrants may be exercised.

##### Issue Price, Exercise Price and Breakeven Point

- 2.2 State the following in bold face:
- (a) the Issue Price, the portion of the Issue Price which represents Settlement Value on the date of issue and, if true, disclose that the Issue Price includes an amount which, after taking into account the expenses of the offering, compensates the issuer as the issuer of the Warrants;
  - (b) the Exercise Price or, if the Warrants are offered on a "best efforts" basis, either the Exercise Price or the formula which will be used to determine the Exercise Price and the date of such determination; and
  - (c) the Breakeven Point in absolute or percentage terms, and if the Warrants are offered on a "best efforts basis" and the Exercise Price will be established on a date following the date of the prospectus, disclose the assumed Exercise Price and that the Breakeven Point could materially increase or decrease at the time the specific Exercise Price is set.

##### Automatic Exercise at Maturity

- 2.3 State that if the Warrants have a positive Settlement Value on the expiration date they will be automatically exercised and an amount equal to the Settlement Value of any unexercised Warrants will be distributed to registered holders.

#### Extraordinary Events

- 2.4 If applicable, state that in certain circumstances an Extraordinary Event may occur, state the maximum delay in valuation which may result from the occurrence of such an event and cross reference the disclosure required by Item 12.17.

#### Distribution Spread

- 2.5 The information called for by the following table shall be given, in substantially the tabular form indicated, on the face page of the prospectus as to all Warrants being offered for cash (estimate amounts, if necessary).

TABLE

	Column 1	Column 2	Column 3
	Price to public	Underwriting discounts or commissions	Proceeds to issuer or selling security holder
Per unit	.....	.....	.....
Total	.....	.....	.....

- 2.6 Only commissions paid or payable in cash by the issuer or selling security holder or discounts granted are to be included in the table. Commissions or other consideration paid or payable in cash or otherwise by other persons or companies and consideration other than discounts granted and other than cash paid or payable by the issuer or selling security holder shall be set out following the table with a reference thereto in the second column of the table. Any finder's fees or similar payments shall be appropriately disclosed.
- 2.7 Where the proceeds to the issuer or the selling security holder are calculated prior to the payment of issue expenses, such expenses should be disclosed in a footnote and the party paying such expenses shall be identified.
- 2.8 The table should set out separately those securities which are underwritten, those under option and those to be sold on a "best efforts" basis.
- 2.9 If the presentation of information in the form contemplated results in unnecessary complication, the tabular form may, with the consent of the securities regulatory authorities, be varied.
- 2.10 If any of the securities offered are to be offered for the account of existing security holders, refer on the face page of the prospectus to the information called for by Item 6.4. State the portion of the expenses of distribution to be borne by the selling security holder.
- 2.11 Disclose how the price paid to the issuer was established, whether by negotiation with the underwriter, arbitrarily by the issuer, or otherwise.

## Risk Factors

- 2.12 Include in bold face appropriate risk factor disclosure, including the following statement or such variation thereof as the securities regulatory authorities may permit:

"Investment in the Warrants for non-hedging purposes is speculative and holders of the Warrants should be prepared to sustain a total loss of their investment. For a discussion of other risk factors associated with an investment in the Warrants see "Risk Factors"."

If the Warrants being offered are debt-like securities, this disclosure may be modified by replacing the reference to "total loss" with "substantial loss".

## Eligibility of Investors

- 2.13 Include in bold face the following statement:

"Retail investors may only purchase the warrants [or, if applicable, insert appropriate name of debt-like security if the Warrants being offered are debt-like securities] offered under this prospectus if they have an account approved to trade in clearing corporation options and thereby have received the Disclosure Statement for Recognized Market Options".

## Nature of Obligation

- 2.14 Summarize the nature of the issuer's payment obligation to Warranholders and cross reference the disclosure required by Item 12.16.

## Joint Ventures

- 2.15 If applicable, summarize the disclosure required by Item 19.2.

## Decreasing the Offering Price of the Warrants

- 2.16 Where an issuer eligible to use the POP System wishes to be able to decrease the price at which the Warrants are offered for cash from the initial public offering price fixed in the prospectus and thereafter change, from time to time, the price at which the Warrants are distributed under the prospectus in accordance with the procedures permitted by this Policy, disclose on the face page of the prospectus that:

- (a) the compensation realized by the underwriters will be decreased by the amount that the aggregate price paid by purchasers for the

Warrants is less than the gross proceeds paid by the underwriters to the issuer; and

- (b) after the underwriters have made a bona fide effort to sell all of the Warrants at the initial public offering price fixed in the prospectus, the public offering price may be decreased and thereafter further changed, from time to time, to an amount not greater than the initial public offering price fixed in the prospectus.

## Legends

- 2.17 A Warrant prospectus shall contain the following legend on the face page:

"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 has in any way passed upon the merits of the securities offered hereunder and any representation to the contrary is an offence."

- 2.18 Any Warrant prospectus which incorporates information by reference in accordance with this Policy shall contain the following legend on the face page:

"Information has been incorporated by reference in this prospectus from documents filed with securities commissions or similar authorities in Canada. Copies of the documents incorporated herein by reference may be obtained on request without charge from the secretary of the issuer at [insert complete address and telephone number]. [insert if the offering is made in Québec - "For the purpose of the Province of Québec, this prospectus contains information to be completed by consulting the permanent information record. A copy of the permanent information record may be obtained from the secretary of the issuer at the above-mentioned address and telephone number".]"

### Item Three - Summary of Prospectus

#### General

- 3.1 Provide a synopsis near the beginning of the prospectus of the information, both favourable and adverse, in the body of the prospectus which is pertinent to the investor's decision to purchase the Warrants.
- 3.2 Appropriate cross references may be made to sections of the prospectus where information is difficult to summarize accurately, but this must not detract from the necessity to have salient points summarized in the summary.

#### Terms, Conditions and Mechanics of Warrants

- 3.3 A synopsis of the disclosure required by Items 12.1 to 12.16 must be provided.

#### Extraordinary Events

- 3.4 If applicable, disclose that special rules will govern the exercise and valuation of Warrants under certain circumstances and cross reference the disclosure required by Item 12.17.

#### Underlying Interest

- 3.5 A synopsis of the disclosure required by Item 10.1 (a), (c) and (f) must be provided.

#### Risk Factors

- 3.6 Where appropriate to a clear understanding by investors of the risk factors, include a synopsis of risk factors relating to the offering of Warrants. In any event, cross reference must be made to the risk factor section of the prospectus.

### Item Four - Business of the Issuer

#### Name and Incorporation of Issuer

- 4.1 State the full corporate name of the issuer and the address of its head office and principal office. State the laws under which the issuer was incorporated, continued or amalgamated, and the date the corporation came into existence. If material, state whether these have been amended. If the issuer is not a corporation, give material details of its form of organization and structure.

#### Directors and Officers

- 4.2 List the names of all directors and officers of the issuer and indicate all positions and offices with the issuer held by each person named and their principal occupations within the five preceding years.
- 4.3 Where the municipality of residence or postal address is listed, the securities regulatory authorities may request that the home address in full be furnished to the securities regulatory authorities.
- 4.4 Where the principal occupation of a director or officer is with a company other than the issuer, state the principal business in which such company is engaged.
- 4.5 Where a director or officer has held more than one position with the issuer, or a parent or subsidiary thereof, state only the positions held with the issuer within the preceding five years.
- 4.6 If any director or officer of the issuer is a director, officer or principal security holder of the issuer of the underlying interest " " " " " " " " " " or of a security comprising 20 per cent or more of the value of the underlying interest on the date of the prospectus, disclose their current status and the positions held with such company within the preceding five years.
- 4.7 Include the information relating to compensation of directors and officers required by applicable securities legislation.

#### Description of Business

- 4.8 Where the underlying interest of the Warrants being offered is held solely for the benefit of Warrantheolders using trust or other custodial arrangements satisfactory to securities regulatory authorities, the issuer need not comply with Items 4.9 to 5.19 inclusive.
- 4.9 Describe the business and affairs (including a description of the particular operations or market activities of the issuer, if any, which relate to the underlying interest) of the issuer, guarantor and any third party that has entered into an agreement with the issuer pursuant to which the third party will share in profits or losses with the issuer as a result of the Warrant offering.
- 4.10 If a material portion of the business and affairs of the issuer includes the buying or selling of financial instruments, including options, Warrants, swaps and futures or forward contracts and the underlying interest of the Warrants being offered is not held solely for the benefit of Warrantheolders using trust or other custodial arrangements satisfactory to securities regulatory authorities, provide a detailed description of these activities. This description should include a description of other Warrant offerings completed, notional principal amounts of each major category of financial instrument outstanding (ie. the underlying amount on which the financial instrument is based), a description of the hedging expertise of the issuer, the method of managing risk associated with its financial instrument activities, a description of the policies and practices of the issuer with respect



to the creditworthiness of its counterparties, an estimate of the amount at risk due to potential non-performance of counterparties and the method used to estimate the risk.

#### Liquidity and Capital Resources

- 4.11 Set forth the information required by Items 4.13 and 4.14 or incorporate the information by reference from the most recent management discussion and analysis contained in the annual information form or annual report of the issuer of the Warrants. If the issuer elects to incorporate this information by reference and there have been material changes in such disclosure between the time of finalizing the management discussion and analysis and the filing of the preliminary prospectus issuers must update the disclosure required by Items 4.13 and 4.14 of the Appendix.
- 4.12 Discussions of liquidity and capital resources may be combined whenever this facilitates the discussion. The discussion of liquidity must be on both a historical and prospective basis in the context of the issuer's business (eg. a discussion of working capital may be appropriate for certain manufacturing, industrial or related operations but might be inappropriate for a financial institution or public utility) and must focus on the ability of the issuer to generate adequate amounts of cash and cash equivalents when needed. The discussion of liquidity and capital resources should focus on both short term and long term needs. Generally, short-term liquidity and short-term capital resources relate to cash needs for the next twelve months. This discussion should encompass matters such as the issuer's need to settle obligations as they mature and to maintain capacity to provide for planned growth.

#### Liquidity

- 4.13 With respect to matters of liquidity:
- (a) Identify any known trends or expected fluctuations in the issuer's liquidity, taking into account known demands, commitments, events or uncertainties. If a deficiency is identified indicate the course of action that has been taken or is proposed to be taken to remedy the deficiency.
  - (b) Describe those balance sheet conditions or income or cash flow items which the issuer believes may be indicators of its liquidity condition.
  - (c) Disclose the requirements relating to working capital items (e.g., where significant quantities of inventory are required to be carried to meet rapid delivery requirements of customers or where extended payment terms have been provided to customers).
  - (d) Disclose the nature and extent of legal or practical restrictions on the ability of subsidiaries to transfer funds to the issuer. Disclose the impact such restrictions have had and are expected to have on the ability of the issuer to meet its obligations.
  - (e) If the issuer is in arrears on the payment of dividends, interest, or principal payment on borrowings, disclose this fact and provide details. If the issuer is in default on any debt covenants at the present time or was in default during the most recently completed fiscal year, disclose information concerning the default.

#### Capital Resources

- 4.14 Capital resources mean indebtedness, share capital of the issuer and any other financial arrangement, whether reflected on the balance sheet, or not, that can reasonably be considered to provide resources (e.g. leases and put options).
- (a) Describe and quantify commitments for capital expenditures as of the end of the last completed financial year, and indicate the general purpose of such commitments and the anticipated source of funds needed to fulfil such commitments. Also quantify expenditures that are necessary but not yet committed to meet plans discussed in the most recent management discussion and analysis or annual information form material or in the prospectus.
  - (b) Describe any known trends, favourable or unfavourable, in the issuer's capital resources. Indicate any expected changes in the mix and relative cost of such resources. Briefly discuss other sources of financing that have been arranged but not yet utilized.

#### Natural Resource Issuers

- 4.15 This section of the Appendix only applies to an offering of Warrants by a natural resource issuer where the value of the Warrants is based on a metal or other commodity either produced by the issuer of the Warrant or its affiliates or in which the issuer or its affiliates have a royalty interest or some other interest and where such production is to be used to hedge the risk associated with the Warrants.
- 4.16 The information called for by this section of the Appendix shall only be given with respect to the properties of the issuer and its subsidiaries on which the proceeds of the issue are to be expended, in whole or in part, or which are major producing properties or are properties for which production is planned. Information with respect to the other properties of the issuer and its subsidiaries should be given in summary form or may, in the case of issuers eligible to use the POP System, be incorporated by reference to the issuer's annual information form.
- 4.17 With respect to the natural resource operations of an issuer, other than oil and gas operations, include the information required in Item 3(i) of Draft National Policy Statement No. 47.
- 4.18 With respect to the oil and gas operations of an issuer, include the information required in Item 3(j) of Draft National Policy Statement No. 47.

#### Item Five - Financial Information of the Issuer

##### Share and Loan Capital Structure

- 5.1 Subject to Item 5.14, disclose in substantially the tabular form indicated, or where appropriate in notes thereto:
- (a) particulars of the share and loan capital of the issuer;
  - (b) particulars of the loan capital of each subsidiary of the issuer (other than loan capital owned by the issuer or its wholly-owned subsidiaries) whose financial statements are contained in the prospectus on either a consolidated or individual basis;

- (c) the aggregate amount of the minority interest in the preference shares, if any, and the aggregate amount of the minority interest in the common shares and surplus of all subsidiaries whose financial statements are contained in the prospectus on a consolidated basis; and
- (d) the aggregate amount of the minority interest in the preference shares, if any, and the aggregate amount of minority interest in the common shares and surplus of all subsidiaries whose financial statements are contained in the prospectus on an individual basis and not included in the consolidated financial statements.

TABLE

Column 1 5	Column 2	Column 3	Column 4	Column 5
Designation of Security	Amount authorized	Amount outstanding	Amount outstanding	Amount to be

<p>or to be authorized</p>	<p>date of the</p> <p>most recent</p> <p>balance sheet contained in the prospectus</p>	<p>as of the specific</p> <p>date within</p> <p>30 days</p>	<p>as of a</p> <p>being</p> <p>are sold</p>	<p>if all</p> <p>s e c u r i t i e s</p> <p>i s s u e d</p>
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- 5.2 Include all indebtedness for borrowed money as to which a written understanding exists that the indebtedness may extend beyond one year. Do not include other indebtedness classified as current liabilities unless secured.
- 5.3 Include in the table the amount of obligations under financial leases capitalized in accordance with generally accepted accounting principles. Set out in a note to the table a cross reference to any note in the financial statements containing information concerning the extent of obligations arising by virtue of other leases on real property.
- 5.4 Individual items of indebtedness which are not in excess of 3 percent of total assets as shown in the balance sheet referred to in Column 3 may be set out in a single aggregate amount under an appropriate caption such as "Sundry Indebtedness".
- 5.5 Where practicable, state in general terms the respective priorities of the indebtedness shown in the table.
- 5.6 Give particulars of the amount, general description of and security for any substantial indebtedness proposed to be created or assumed by the issuer or its subsidiaries, other than indebtedness offered by the prospectus.
- 5.7 Set out in a note the amount of contributed surplus and retained earnings as of the date of the most recent balance sheet contained in the prospectus.
- 5.8 Set out in a note the number of shares of the issuer subject to rights, options and warrants.
- 5.9 No information need be given under Column 2 with respect to the common and preference shares of subsidiaries.
- 5.10 For the purposes of Column 3, in computing the amount of the minority interest in the subsidiaries whose financial statements are contained in the prospectus on an individual basis and not included in the consolidated financial statements, such computation may be based on the financial statements of each such subsidiary contained in the prospectus.
- 5.11 In computing the minority interest in the subsidiaries for the purposes of Column 4, the amount set out in Column 3 may be used provided that appropriate adjustment is made to such amount to reflect any change in the percentage of ownership in the capital and surplus of any subsidiary by the minority interest.
- 5.12 The thirty-day period referred to in Column 4 is to be calculated within thirty days of the date of the preliminary prospectus. Where more than thirty days have elapsed from the date of the preliminary prospectus, the information included in the prospectus shall, if feasible, be updated to a date within thirty days of the prospectus.
- 5.13 The information to be set out in Column 5 may be based upon the information contained in Column 4, adjusted to take into account any amounts set out in Column 4 to be retired out of the proceeds of the issue.
- 5.14 Issuers using the POP System must describe any material change in, and the effect thereof on, the share and loan capital of the issuer, on a consolidated basis, since the date of the comparative financial statements for the issuer's last completed financial year filed with the securities regulatory authorities.

## Financial Statements

- 5.15 The prospectus must disclose that the issuer is not obligated to deliver its annual and interim financial statements to holders of Warrants and that copies of the issuer's most recent audited financial statements and copies of its subsequent unaudited financial statements may be obtained on request without charge from the Canadian head office of the issuer. If the issuer is required to publish its annual and interim financial statements in a Canadian newspaper, the prospectus should disclose this obligation.

## Financial Institutions

- 5.16 Loan terminology referred to in this section shall have the meaning attributed thereto in the Guidelines for Canadian Chartered Banks, published by the Office of the Superintendent of Financial Institutions Canada, or its predecessor.
- 5.17 If the issuer elects to incorporate the following information by reference and there have been any material changes in such disclosure between the time of finalizing the annual information form and the filing of the prospectus, issuers are reminded of their obligation to update the disclosure required by these Items of the Appendix.
- 5.18 With respect to bank operations of an issuer's business, set forth the following information or incorporate the information by reference from the most recent annual information form of the issuer of the Warrants.
- (a) Non-Performing Loans
    - (i) Disclose the dollar amount of non-accrual consumer loans by personal plan and credit card category as at the most recent financial year end.
    - (ii) Disclose the dollar amount of non-accrual loans by Canadian residents and residents elsewhere as at the most recent financial year end.
    - (iii) In aggregate, for sovereign risk and private sector loans to banks and other entities, disclose the dollar amount of non-personal renegotiated reduced rate loans by Canadian residents and residents elsewhere as at the most recent fiscal year end in excess of the greater of (1) 1/10 of 1 percent of the aggregate paid-in capital, contributed surplus and retained earnings of the bank at such time; and (2) \$500,000.
  - (b) Other Past Due Loans

Disclose the dollar amount of loans 90-179 days past due and 180 days or more past due, separately, for loans by Canadian residents and residents elsewhere as at the most recent financial year end.
  - (c) Interest Income

Disclose separately, interest income as reported for the most recently completed financial year for domestic and international non-accrual loans, renegotiated reduced rate loans, and other past due loans.
  - (d) Loans with Provisions for Doubtful Credits

For sovereign risk and private sector loans to banks and other entities, disclose the dollar amount of loans with provision for doubtful credits other than general country risk provisions as at the most recent financial year end.

(e) Restructured Loans

- (i) Disclose the dollar amount of loans classified as restructured loans in the last financial year for loans by Canadian residents and by residents elsewhere.
- (ii) Disclose the dollar amount of loans classified as restructured loans in the last financial year listed by country for sovereign risk and private sector loans to banks and other entities.

(f) Foreign Loans

- (i) Disclose for countries designated by the Office of the Superintendent of Financial Institutions as requiring provisions against general country risk (the "designated countries"), total claims for sovereign risk and private sector loans to banks and other entities by country as at the most recently completed financial year.
- (ii) Disclose total sovereign risk claims by country for any other countries towards which provisions against claims have been established as at the most recently completed financial year.

(g) Allowance for Credit Losses

Disclose the dollar amount of: (i) specific provisions as at the most recently completed financial year, (ii) provisions for doubtful credits as at the most recently completed financial year; and (iii) general country risk provisions for designated countries by country, or countries if the general provision is established on a basket of countries as at the most recently completed financial year.

5.19 With respect to the trust, mortgage loan and credit union (caisse populaire) operations of the issuer's business, set forth the following information or incorporate the information by reference to the most recent annual information form of the issuer of the Warrants:

- (a) separately, interest income for personal, commercial, and mortgage loans as reported for the most recently completed financial year;
- (b) the dollar amount of loans 90-179 days past due and 180 days or more past due separately for personal, commercial and mortgage loans as at the most recently completed financial year; and
- (c) the dollar amount of provisions with respect to loans disclosed under Item 5.18(b) as at the most recently completed financial year.

Item Six - Principal Holders of Securities of the Issuer

6.1 Furnish the following information as of a specified date within thirty days prior to the date of the preliminary prospectus in substantially the tabular form indicated.

- (a) The number of securities of each class of voting securities of the issuer owned of record or beneficially, directly or indirectly, by each person or company who owns of record, or is known by the issuer to own beneficially, directly or indirectly, more than 10 per cent of any class of such securities. Show in Column 3 whether the securities are owned both of record and beneficially, of record only, or beneficially only, and show in Columns 4 and 5 the respective amounts and percentages known by the issuer to be owned in each such manner.

TABLE

Column 1	Column 2	Column 3	Column 4	Column 5
Name and address of class	Designation	Type of ownership securities	Number of of class	Percentage

- (b) The percentage of each class of voting securities of the issuer or its parent or any of its subsidiaries beneficially owned, directly or indirectly, by all directors and senior officers of the issuer, as a group, without naming them.

TABLE

Column 1	Column 2
Designation of Class	Percentage of Class

- 6.2 Where a company is shown by the issuer as owning, directly or indirectly, more than 10 per cent of any class of such securities, the securities regulatory authorities may require the disclosure of such additional information as is necessary to identify any individual who, through their direct or indirect ownership of voting securities in the company, owns directly or indirectly more than 10 per cent of any class of such securities. The name of such an individual should be disclosed in a footnote to the table described in Item 6.1(a).
- 6.3 For purposes of Item 6.1(a), securities owned beneficially, directly or indirectly, and of record shall be aggregated in determining whether any person or company owns more than 10 per cent of the securities of any class.
- 6.4 If any of the Warrants being offered are to be offered for the account of a security holder, name the security holder and state the number or amount of Warrants owned by the security holder, the number or amount to be offered for the account of the security holder, and the number or amount to be owned by the security holder after the offering.
- 6.5 If, to the knowledge of the issuer or the underwriter of the Warrants being offered, more than 10 percent of any class of voting securities of the issuer are held or are to be held subject to any voting trust or other similar agreement, state the designation of such securities, the number or amount held or to be held and the duration of the agreement. Give the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the agreement.
- 6.6 If, to the knowledge of the issuer, the controlling shareholder of the issuer or the underwriter of the Warrants being offered, any person or company named in answer to Item 6.1(a) is an associate or affiliate of any other person or company named therein, disclose, in so far as known, the material facts of such relationship, including any basis for influence over the issuer enjoyed by the person or company other than the holding of the voting securities of the issuer.

## Item Seven - Hedge Disclosure

- 7.1 The prospectus must disclose whether or not the issuer has hedged its liability under the Warrants, and whether or not the proceeds of the hedge are held for the sole benefit of Warranholders pursuant to trust or other custodial arrangements.
- 7.2 Except in the circumstances described in Item 7.4, issuers must disclose that their ability to make payment on the Warrants will depend solely upon their financial position at the time payment is due, which will be determined by all factors affecting the issuer's creditworthiness including all other Warrant and over-the-counter derivative liabilities.
- 7.3 The issuer must disclose all respects in which the hedging arrangements may be or become material to purchasers of the Warrants. For example, if an Extraordinary Event may result from an inability to hedge the Warrants, or if the issuer has discretion to limit the exercise rights of Warranholders in certain situations due to the nature of the hedging arrangements, then disclosure respecting the hedge must include a description of the hedging arrangements including, for example, whether a matching over-the-counter transaction has been entered into with a counterparty, or whether a dynamic hedge will be managed by the issuer or some other hedge manager.
- 7.4 Where a hedge or the actual underlying interest is held by the issuer, trustee or a custodian for the sole benefit of Warranholders or the hedge comprises substantially all of the assets of the issuer, the prospectus must include the following disclosure with respect to the hedge or assets held:
- (a) a summary of the trust or custodial arrangements, including the name of the trustee or custodian and the nature of any material relationship between the trustee or custodian and the issuer of the Warrants or its affiliates;
  - (b) a description of the hedging arrangements, including, for example, whether a matching over-the-counter transaction has been entered into with a counterparty, or whether a dynamic hedge will be managed by the issuer or some other hedge manager;
  - (c) if applicable, a description, but not necessarily the identity, of the hedge counterparty, including creditworthiness and any relationship to the issuer;
  - (d) if applicable, the identity of the hedge manager and a description of the hedge manager's experience and expertise;
  - (e) a summary of the situations in which the hedging arrangements may be ineffective, such as a failure of a hedge counterparty to satisfy its obligations or the risks of a dynamic hedging program; and
  - (f) an explanation of the likely effects of any failure of the hedging arrangement on payment to Warranholders.
- 7.5 In certain circumstances, issuers may be required to provide the securities regulatory authorities with additional information with respect to the hedging arrangements to enable the securities regulatory authorities to determine the appropriateness of accounting treatment or of proposed Extraordinary Events.

## Item Eight - Guarantor



- 8.1 If the obligations of the issuer with respect to the Warrants are guaranteed, Items 4.1 to 4.14, 5, 6, 7, 9, 17, 21, 22, 23 and 27 apply to the guarantor as if it were the issuer.
- 8.2 If the guarantor is eligible to use the POP System, the issuer may satisfy the requirements in Item 8.1 (other than Items 4.1, 4.6, 4.8 to 4.18, 5.14 to 5.19, 7.1 to 7.5, 9, 17, 22.3 and 27) by incorporating by reference into the prospectus the appropriate documents of the guarantor.
- 8.3 If the guarantor is not a reporting issuer in each jurisdiction in which the Warrants are being offered, disclose that the guarantor will comply with Article 7.4.

#### Item Nine - Promoter

- 9.1 If any person or company is or has been a promoter of the issuer or of any of its subsidiaries within the five years immediately preceding the date of the preliminary prospectus furnish the following information.
- (a) State the name of the promoters, the nature and amount of anything of value (including money, property, contracts, options or rights of any kind) received or to be received by each promoter directly or indirectly from the issuer, or from any of its subsidiaries, and the nature and amount of any assets, services or other consideration therefor received or to be received by the issuer or subsidiary.
- (b) As to any assets acquired within the past two years or to be acquired by the issuer or by any of its subsidiaries from a promoter, state the amount at which they were acquired or are to be acquired and the principle followed or to be followed in determining the amount. Identify the person making the determination and state his relationship, if any, with the issuer, any subsidiary or any promoter. State the date that the assets were acquired by the promoter and the cost thereof to the promoter.

#### Item Ten - Underlying Interest

- 10.1 The prospectus must provide full, true and plain disclosure respecting underlying interests, including:
- (a) a description of the underlying interest, including where the market price or level is published or made available, a description of all Canadian and all other principal markets in which the underlying interest trades and a brief description of the regulation of the principal market for each component of the underlying interest;
- (b) in the case of any component of the underlying interest that comprises 20 percent or more of the value of the Warrant on the date of the prospectus either (i) disclosure in the prospectus of all material facts relating to each such underlying security, commodity or financial instrument or (ii) in the case of underlying securities only, a brief summary of the business carried on by the issuer of each such security, the trading history of each security in accordance with Item 10.1(k) and the identification and incorporation into the prospectus by reference of the documents referred to in Item 26 relating to the issuer of the underlying interest or of a component of the underlying interest together with a statement that copies of documents identified are available on request, without charge, from the Canadian head office of the issuer of the Warrants;

- (c) in the case of underlying interests which are indices, (i) a description of the proportion of the total index represented by each component of the index, (ii) a statement that a list of securities or commodities comprising the index will be made available on request, without charge, at the Canadian head office of the issuer of the Warrants and, (iii) with respect to each component of the underlying interest comprising 20 percent or more of the value of the Warrant on the date of the prospectus, a description of price limits or "circuit breakers" on the principal exchanges trading such component;
- (d) with respect to underlying interests which are comprised in whole or in material part of Restricted Shares, disclosure of the rights applicable in corporate or securities law to common shares but not to the Restricted Shares, and disclosure of whether the absence of such rights may materially affect the value of the Warrants (e.g. during a take-over bid);
- (e) an explanation of all non-discretionary adjustments and substitutions to be made in accordance with Article 6.3(a) and an explanation of the likely impact of any such adjustments or substitutions on the Warrants;
- (f) an explanation of all discretionary adjustments, substitutions and calculations to be made in accordance with Article 6.3(c), identification or a description of the entity which will make adjustments, substitutions and calculations, and an explanation of the likely impact of any such adjustments, substitutions or calculations on the Warrants;
- (g) if the market price or level of the underlying interest is unavailable (such as, in the case of stock index Warrants, as a result of the cessation or interruption of an exchange or an index) disclosure of the successor or substitute for the underlying interest, if any, which will be used or what other calculations will be made, and an explanation of the likely impact of any such substitutions or calculations on the Warrants;
- (h) disclosure of the extent to which the issuer, promoters or any affiliate thereof may have the ability to materially influence the market price or level of the underlying interest and disclosure of the identity of such entities;
- (i) disclosure that all necessary consents for use of the underlying interest have been obtained by the issuer of the Warrants;
- (j) disclosure that the issuer has no reason to believe that trading in the underlying interest, or calculation of the market price or level of the underlying interest, will be discontinued or interrupted;
- (k) disclosure of the market price or level of the underlying interest and all components of the underlying interest which account for 20 percent or more of the value of the Warrants on the date of the prospectus, on a monthly basis for each month or, if applicable, part month, of the previous quarter and the immediately preceding quarter and on a quarterly basis for the next preceding seven quarters; where the underlying interest or material components thereof are listed on an exchange, this information should include price ranges and volumes; and

- (l) disclosure of any material revisions to the underlying interest or to the method of calculation of the market price or level of the underlying interest from the date that the underlying interest was previously approved by the securities regulatory authorities.

10.2 With respect to Warrants which have as the underlying interest or as a material component thereof a security or financial instrument of an issuer which is not the issuer of the Warrants nor an affiliate or associate thereof and which has no direct or indirect involvement with the offering of the Warrants, and the persons which are subject to statutory liability for a misrepresentation in the prospectus ("Specified Persons") have not had an opportunity to independently verify the accuracy and completeness of all of the information relating to the issuer of the underlying interest:

- (a) the prospectus must indicate the extent to which the disclosure relating to the issuer of the underlying interest is based on the public disclosure record of that issuer;
- (b) the prospectus must disclose all steps taken to ensure the accuracy and completeness of the information in the prospectus relating to the issuer of the underlying interest;
- (c) the prospectus must indicate that no Specified Person has knowledge that the public disclosure record of the issuer of the underlying interest is untrue or incomplete; and
- (d) the prospectus may indicate that the Specified Person can not be certain of the accuracy or completeness of the information pertaining to the issuer of the underlying interest.

#### Item Eleven - Calculation Expert

- 11.1 The prospectus must disclose the involvement of a Calculation Expert in the calculation of Settlement Value (Articles 6.5, 6.18(c) or 6.18(d)), adjustments to the underlying interest (Article 6.3(c)) and confirmation of the occurrence or cessation of certain events (Articles 6.5(b), 6.18(a) or 6.18(d)(iii)).
- 11.2 If a Calculation Expert has been retained as of the date of the receipt for the prospectus, disclosure must be made of any past, present or anticipated relationship between the Calculation Expert and the issuer, notwithstanding the fact that the Calculation Expert is Independent.
- 11.3 The prospectus must disclose that the Calculation Expert will act as an independent expert and not as an agent for the issuer of the Warrants and that Warrantholders are entitled to rely on calculations and confirmations made by the Calculation Expert, including circumstances in which a dispute arises between the Calculation Expert and the issuer, and that all calculations and confirmations of the Calculation Expert will be available upon request, without charge, at the Canadian head office of the issuer.

#### Item Twelve - Description of Warrants

Disclose all material attributes and characteristics of the Warrants including, without limitation, the information set out in this Item.

#### Issue Date, Expiration Date and Exercise Period

- 12.1 State the period, dates or date when the Warrants may be exercised, including the final date on which the Warrants may be exercised and explain the consequences if the Warrants do not have a positive Settlement Value on the final exercise date.

#### Issue Price, Exercise Price and Breakeven Point

- 12.2 State:

- (a) the Issue Price, the portion of the Issue Price which represents Settlement Value on the date of issue and, if true, disclose that the Issue Price includes an amount which, after taking into account the expenses of the offering, compensates the issuer as the issuer of the Warrants;
- (b) the Exercise Price or, if the Warrants are offered on a "best efforts" basis, either the Exercise Price or the formula which will be used to determine the Exercise Price and the date of such determination; and
- (c) the Breakeven Point in absolute or percentage terms, and if the Warrants are offered on a "best efforts basis" and the Exercise Price will be established on a date following the date of the prospectus, disclose the assumed Exercise Price and that the Breakeven Point could materially increase or decrease at the time the specific Exercise Price is set.

- 12.3 If the Warrants are offered on a "best efforts" basis and the Exercise Price will be established on a date following the date of the prospectus, disclose the maximum amount by which the Exercise Price may vary from the amount the Exercise Price would have been if the market price value or level of the underlying interest on the date of the prospectus was used to determine the Exercise Price.

- 12.4 If the Warrant PREP Procedures described in Article 3 of the Policy are being followed, the prospectus may omit the disclosure required by Item 12.2 provided that (a) the prospectus includes the formula or method to be used to set the specific Exercise Price (eg. one cent less than the spot price of the Canadian dollar on the closing date) and (b) the Issue Price, the Breakeven Point and the specific Exercise Price must be set forth in a supplemented prospectus in accordance with National Policy Statement No. 44 provided that where the offering is being made on a "best efforts" basis and the Exercise Price will be established on a date following the date of the supplemented prospectus, the formula by which the Exercise Price is determined rather than the specific Exercise Price may be set forth in the supplemented prospectus.

#### Decreasing the Offering Price of the Warrants

- 12.5 Where an issuer eligible to use the POP System wishes to be able to decrease the price at which the Warrants are offered for cash from the initial public offering price fixed in the prospectus and thereafter change, from time to time, the price at which the Warrants are distributed under the prospectus in accordance with the procedures permitted by this Policy, disclose that after the underwriters have made a bona fide effort to sell all of the Warrants at the initial public offering price fixed in the prospectus, the public offering price may be decreased and thereafter further changed, from time to time, to an amount not greater than the initial public offering price fixed in the prospectus.

#### Minimum Purchase

- 12.6 Disclose the minimum number of Warrants that must be purchased.

## Method of Exercise

- 12.7 State how the Warrant exercise form must be executed, when it may be delivered and where it must be delivered. Disclose whether, subject to the right of revocation prescribed by Articles 6.10 and 6.18(b) of the Policy, delivery of the Warrants constitutes an irrevocable commitment to exercise the Warrants and, if not, disclose the method and circumstances in which revocation may be made. In addition, disclose whether Warrants will be exercised if the Warrant exercise notice is deficient. Disclose the number of days, if any, between delivery of the Warrant exercise notice and the valuation of such Warrants.

## Settlement Value

- 12.8 Set out the arithmetic formula to be used to calculate the Settlement Value, define all components of the formula, identify the circumstances in which the Calculation Expert will calculate the Settlement Value and provide an example of a calculation of Settlement Value using the formula.

## Physical Settlement

- 12.9 If the Warrant obligations may be satisfied by the issuer making or taking physical delivery of the underlying interest, the prospectus must include:
- (a) detailed disclosure of the method by which delivery of the underlying interest will or must be made and all other elements of the physical settlement feature;
  - (b) risk factor disclosure relating to making physical delivery, as well as the risks of holding the underlying interest of the Warrants;
  - (c) disclosure that on any exercise date on or following the final valuation date, holders may elect to cash settle if they hold less than the minimum number of Warrants required to exercise for physical delivery; and
  - (d) disclosure that on any early termination by the issuer, holders may elect to cash settle.

## Minimum Exercise

- 12.10 State the minimum number of Warrants that may be exercised, and state that on early termination of the Warrants by the issuer, or any exercise date on or following the final valuation date, any number of Warrants may be exercised. Reference those parts of the prospectus which disclose the circumstances in which the right to exercise may be suspended.

## Maximum Exercise

- 12.11 If this is a feature of the Warrant offering, provide detailed disclosure of the circumstances in which the number of Warrants that may be exercised or valued on any one date may be limited. As well, describe the effect of such limit being imposed and the maximum possible delay between the tendering of exercise notices and valuation of Warrants. Include an explanation of why there is a maximum exercise provision. Disclose that the Warranholder will receive an explanation of the delay in valuation on the first settlement date following the filing of the exercise notice.

## Delay Between Exercise and Valuation

- 12.12 Disclose that if in any circumstance, including the invocation of maximum exercise provisions as described in Item 12.11, the delay between the date Warrant exercise notices are tendered and the date such Warrants are valued is greater than one business day (or such longer period of time permitted by securities regulatory authorities in accordance with Article 6.10), Warranholders who have tendered exercise notices may revoke such notices at any time prior to the valuation of the exercised Warrants.

## Early Termination

- 12.13 If the possibility of early termination is a feature of the Warrants, disclose that at the time the issuer elects to terminate the Warrants it must issue a press release in accordance with Article 7.1(a) and publish or deliver a notice in accordance with Article 7.1(c) of the Policy. The prospectus must also describe the content of the press release and notice required by either Article 6.12 or Article 6.18(c)(iv), of the Policy as the case may be.

## Automatic Exercise at Maturity

- 12.14 The prospectus must disclose that if the Warrants have a positive Settlement Value at the close of trading on the expiration date, then all outstanding Warrants will be automatically exercised and the Settlement Value will be calculated as of the expiration date unless an Extraordinary Event is continuing on the expiration date, in which case the Settlement Value will be calculated as of the earlier of the date on which the Extraordinary Event ceases and the tenth business day following the expiration date.

## Special Features

- 12.15 Special features such as embedded or attached options, or early termination as described in Article 6.11, should be fully described in the prospectus under a separate heading. An example of a special feature is a limit option, which permits Warranholders to revoke a Warrant exercise notice upon an adverse movement in the underlying interest between the date on which the exercise notice is filed and the date on which the Warrant is valued. Another example is a look-back option, where the Exercise Price is set at the greater of the spot prices on two predetermined dates in the case of a put Warrant, and the lower of the spot prices on two predetermined dates in the case of a call Warrant.

## Nature of Obligation

- 12.16 Disclose whether the obligations of the issuer are secured or unsecured, and describe the nature and priority of the Warrants in relation to all other obligations of the issuer. Disclose any conditions attached to the priority of the Warrants.

## Extraordinary Events

- 12.17 If the Warrants may be subject to Extraordinary Events, the requirements set out in Article 6.18 of the Policy, or such variations thereof as the securities regulatory authorities may permit, must be disclosed.

## Item Thirteen - Liquidity

- 13.1 State the exchange or exchanges upon which the Warrants have been conditionally approved for listing or, if the Warrants have not been conditionally approved for listing on

an exchange, describe the approved market-making obligations undertaken by the registered dealer in accordance with the requirements of Article 9 of the Policy.

#### Item Fourteen - Notification Procedures

- 14.1 Disclose all circumstances in which a press release and a notice must be issued and filed and the methods by which a notice may be provided. (See Article 7.1 of the Policy)

#### Item Fifteen - Eligibility of Investors and Explanation of Options

##### Eligibility of Investors

- 15.1 Disclose that retail investors may only trade in Warrants if they have an account to trade in Recognized Market Options (ie. clearing corporation options), and thereby have received the Disclosure Statement for Recognized Market Options.

##### Explanation of Options

- 15.2 Disclose the following:

"Before exercising or selling Warrants, investors should carefully consider the market price of the Warrants, the market price or level of the underlying interest and any related transaction costs. The market price of a Warrant is expected to be dependent on the market price or level of the underlying interest and also upon a number of interrelated factors, including those listed below. The relationship between these factors is complex. However, the expected effect on the market price of a Warrant of each of the factors listed below, assuming in each case that all other factors are held constant, is as follows:

- (i) if the market price or level of the underlying interest [insert "rises or falls" as appropriate] the market price of a Warrant is expected to decrease;
- (ii) if the volatility of the underlying interest decreases, the market price of a Warrant is expected to decrease;
- (iii) as the time remaining to the expiration of the Warrants decreases, the market price of a Warrant is expected to decrease;
- (iv) [if applicable] if interest rates [insert increase or decrease, as appropriate], the market price of the Warrants can be expected to decrease; and
- (v) [if applicable] if dividend rates on the stocks comprising the underlying interest [insert increase or decrease, as appropriate], the market price of the Warrants can be expected to decrease."

#### Item Sixteen - Risk Factors

- 16.1 State that "before purchasing Warrants, investors should consider the following risks in light of their investment objectives and the information set forth herein". Disclose all risk factors relating to the offering of the Warrants, including statements to the following effect:
- (a) The risks involved in investing or trading in Warrants include many of the risks involved in trading in options. Purchasers of Warrants should carefully read the Disclosure Statement for Recognized Market Options.

- (b) It is impossible to know the future direction of the market price or level of the underlying interest. As such, investment in the Warrants for non-hedging purposes is speculative and holders may sustain a total loss [or if the Warrants are debt-like securities insert "substantial loss" and delete "total loss"], of their investment. In order to avoid a loss on the exercise of the Warrants, the market price or level of the underlying interest must fall or rise, as the case may be, to the Breakeven Point (see "Breakeven Point").
- (c) Investors should be aware that it may not be possible to predict how the Warrants will trade in the secondary market or whether such market will be liquid. Realizing the value of the Warrant through a sale of the Warrant in the secondary market will be negatively affected if trading in the secondary market is not liquid.
- (d) In the case of any exercise of the Warrants before \_ (\_ time), the exercise date will be deemed to be [insert "the same business day" or "the \_ business day following delivery of the exercise notice", as the case may be]. A holder who has exercised Warrants will thus be subject to changes in the Settlement Value for the intervening period between the time the exercise notice is delivered and the time the Settlement Value is determined.
- (e) Investors using Warrants to hedge other positions in securities should understand that the credit risk and non-standard terms and conditions of Warrants may result in the Warrants being an inaccurate hedge for a position in the underlying interest.

16.2 In addition to the risk factor disclosure required under Item 16.1 above, the following risk factors should be disclosed if applicable:

- (a) Warrants may not be exercised upon the occurrence of an Extraordinary Event. In addition, the valuation of Warrants exercised but not valued at the time of the occurrence of an Extraordinary Event may be delayed. If an Extraordinary Event has occurred and is continuing, then the Settlement Value or any other value or amount required to be determined shall be calculated at the time and on the basis set forth under "The Warrants -Extraordinary Events". Also, if an Extraordinary Event has occurred, is continuing and is expected to continue, the issuer may, upon notice to the holders, terminate the Warrants upon payment to the holders of an amount determined as described under "The Warrants - Extraordinary Events".
- (b) The valuation of Warrants may also be delayed in the circumstances described under "Maximum Exercise".
- (c) The hedging arrangements entered into or to be entered into between the issuer and its hedge counterparty with respect to the Warrants are subject to the creditworthiness of the counterparty.
- (d) In certain circumstances, the Calculation Expert shall be required to make alternative calculations as it may deem appropriate to determine the Settlement Value of the Warrants. [insert appropriate cross reference].
- (e) The risks assumed by Warrantholders include those related to currency fluctuations. Fluctuations of the value of [insert currency] as against Canadian dollars will affect the Settlement Value. All other factors held constant, if the



value of the Canadian dollar as against the [insert currency] [insert appreciates or depreciates, as appropriate], the Settlement Value will decrease.

- (f) Investors with long positions in physical settled put Warrants or short positions in physical-settled call Warrants will in certain circumstances be required to make delivery of the underlying interest of the Warrants. If the underlying interest is not available or if for any other reason investors are unable to make delivery of the underlying interest, investors may be unable to realize the value of their position in Warrants and, in certain circumstances, could incur substantial costs.
- (g) If on the date of closing the [insert look-back option or other embedded option feature, as appropriate] has no value, then the market value of the Warrants may be less than the Issue Price of the Warrants.

#### Item Seventeen - Relationship Between Issuer and Underwriter

- 17.1 The issuer and all underwriters must comply with the requirements of the Standard Prospectus Form relating to conflicts of interest applicable to a distribution of (i) securities of a registered dealer; or (ii) securities of or held by a related issuer or connected issuer of a registered dealer.

#### Item Eighteen - Income Tax Considerations

- 18.1 State in general terms the income tax consequences to the holders of Warrants.

#### Item Nineteen - Use of Proceeds to Issuer

- 19.1 State the estimated net proceeds to the issuer from the sale of the Warrants. If the proceeds will not principally be used for purposes of hedging the Warrants, disclose the amount which will not be used for purposes of hedging the Warrants and state such other uses.
- 19.2 If applicable, disclose the parties to and the terms of any agreement between the issuer and a third party to cooperate in the issue of the Warrants if the third party will participate in the profits or losses resulting from the offering of Warrants and provide a qualitative description of the proportion of the profits and losses to be received or contributed by the third party.

#### Item Twenty - Plan of Distribution

- 20.1 If the Warrants being offered are to be sold through underwriters, disclose the names of the underwriters, state briefly the nature of the underwriters' obligation to take up and pay for the Warrants and indicate the date by which the underwriters are to purchase the Warrants.

Outline briefly the plan of distribution of any Warrants being offered that are to be offered otherwise than through underwriters. Where there is a "best efforts" offering, indicate, where practicable, on the face page the minimum amount, if any, required to be raised, and also indicate, where practicable, the maximum amount that could be raised and the latest date that the offering is to remain open. Where there is a "best efforts" offering and a minimum amount is required to be raised, provide that the subscription funds will be held by an independent trustee until closing and, if the minimum amount is not received, that the subscription funds will be returned to the investor and briefly describe such arrangements.

- 20.2 All that is required as to the nature of the underwriters' obligation is whether the underwriters are or will be committed to take up and pay for all of the Warrants if any are taken up, or whether the underwriting is an agency or "best efforts" arrangement under which the underwriters are required to take up and pay for only such Warrants as they may sell.
- 20.3 Where an underwriting is subject to a "market out" clause, a statement in the prospectus under Plan of Distribution should be made with respect to the "market out" clause. A sample paragraph is as follows:

#### Plan of Distribution

"Under an agreement dated ..... 19..... between the company and .....as underwriter, the company has agreed to sell and the underwriter has agreed to purchase on..... 19.....the.....at a price of .....\$, payable in cash to the company against delivery. The obligations of the underwriter under the agreement may be terminated at its discretion on the basis of its assessment of the financial markets and may also be terminated upon the occurrence of certain stated events. The underwriter is, however, obligated to take up and pay for all of the .....if any of the .....are purchased under the agreement".

- 20.4 If the issuer or selling security holder or any of the underwriters knows or has reason to believe that there is an intention to over-allot or that the price of the Warrants may be stabilized to facilitate the offering of Warrants proposed to be distributed set forth a statement substantially to the following effect:

"In connection with this offering, the underwriters may over-allot or effect transactions that stabilize or maintain the market price of [identify the securities] at a level above that which might otherwise prevail in the open market. Such transactions, if commenced, may be discontinued at anytime".

- 20.5 Where an issuer eligible to use the POP System wishes to be able to decrease the price at which the Warrants are offered for cash from the initial public offering price fixed in the prospectus and thereafter change, from time to time, the price at which the Warrants are distributed under the prospectus in accordance with the procedures permitted by this Policy, disclose that the compensation realized by the underwriters will be decreased by the amount that the aggregate price paid by purchasers for the Warrants is less than the gross proceeds paid by the underwriters to the issuer.

#### Item Twenty One - Legal Proceedings

- 21.1 Briefly describe any legal proceedings material to the issuer to which the issuer or any of its subsidiaries is a party or of which any of their property is the subject. Make a similar statement as to any such proceedings known to be contemplated.
- 21.2 Include the name of the court or agency, the date instituted, the principal parties thereto, the nature of the claim, the amount claimed, if any, whether the proceedings are being contested, and the present status of the proceedings.

#### Item Twenty Two - Auditors, Transfer Agents and Registrars

- 22.1 State the name and address of the auditor of the issuer.

- 22.2 The word "issuer" as used in this Item includes, in addition to the issuer, any person directly or indirectly controlling or controlled by the issuer, or any person under direct or common control with the issuer.
- 22.3 Where the consolidated financial statements of the issuer are set out in the prospectus and the auditor of one or more subsidiaries is not the auditor of the issuer, set out the name and address of such auditor and the name and address of the company on which he reported and where such auditor has given a qualified report set out this fact in the prospectus. In addition, where an auditor of a subsidiary or affiliate makes a report in which the wording thereof has the effect of establishing a qualification of the report, file with the securities regulatory authorities the auditor's report, the financial statement reported on, and details applicable to the qualification.
- 22.4 State the name of the Warrant agent and location (by municipality) of each register on which transfers of Warrants may be recorded.

#### Item Twenty Three - Material Contracts

- 23.1 Give particulars of every material contract entered into within the two years prior to the date of the preliminary prospectus by the issuer or any of its subsidiaries, including the Warrant indenture and the underwriting agreement, and state a reasonable time and place at which any such contract or a copy thereof may be inspected during distribution of the Warrants being offered.
- 23.2 The term "material contract" for this purpose means any contract that can reasonably be regarded as presently material to the proposed investor in the Warrants being offered. This Item does not require disclosure of contracts entered into in the ordinary course of business of the issuer or its subsidiaries as the case may be.
- 23.3 Set out a complete list of all material contracts, indicating those which are disclosed elsewhere in the prospectus and provide particulars with respect to those material contracts about which particulars are not given elsewhere in the prospectus.
- 23.4 Particulars of contracts should include the date of, parties to, consideration and general nature of the contracts, succinctly described.
- 23.5 Particulars of contracts need not be disclosed, or copies of such contracts made available for inspection, if the appropriate securities regulatory authorities determine that such disclosure or making the contracts available would impair the value of the contract and would not be necessary for the protection of investors.

#### Item Twenty Four - Interest of Experts

- 24.1 Where any solicitor, auditor, accountant, engineer, appraiser or other person whose profession gives authority to a statement made by him is named in a prospectus or a document specifically incorporated by reference in a prospectus as having prepared or certified any part of that document or is named as having prepared or certified a report or valuation used in or in connection with a prospectus and
- (i) has received or expects to receive any interest, whether direct or indirect in the property of the issuer or any associate or affiliate of the issuer; or
  - (ii) beneficially owns, directly or indirectly, any securities of the issuer or any associate or affiliate of the issuer,

disclose that interest or ownership.

- 24.2 Where any person referred to in Item 24.1 is or is expected to be elected, appointed or employed as a director, officer or employee of the issuer or any associate or affiliate of the issuer, disclose the fact or expectation.

#### Item Twenty Five - Withdrawal Rights

- 25.1 The prospectus must contain a statement of withdrawal and rescission rights in the following form:

"Securities legislation in certain of the provinces 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 and any amendment. In several of the provinces and territories securities legislation further provides a purchaser with remedies for rescission or, in some jurisdictions, damages where the prospectus and any amendment contain a misrepresentation or is not delivered to the purchaser but such remedies must be exercised by the purchaser within the time limit prescribed by the securities legislation of his province or territory. The purchaser should refer to any applicable provisions of the securities legislation of his province or territory for the particulars of these rights or consult with a legal adviser".

- 25.2 Prospectuses that do not include the specific Exercise Price must disclose that investors who are not then aware of the specific Exercise Price (ie. because the Exercise Price is to be determined subsequent to the date of the prospectus in accordance with a formula disclosed in the prospectus) of the securities offered thereunder are required to decide whether or not to exercise their statutory rights of withdrawal without this information.

#### Item Twenty Six - Documents Incorporated by Reference

- 26.1 Issuers using the POP System shall incorporate by reference into the prospectus the documents required to be incorporated into a prospectus under the POP System<sup>5</sup>

<sup>5</sup>Where applicable securities laws permit, issuers which are registrants with the Securities and Exchange Commission of the United States may satisfy certain of their continuous disclosure and incorporation by reference obligations through the use of disclosure documents that have been prepared in accordance with the securities laws of the United States.,

which include:

- (a) the issuer's latest annual information form;
- (b) the following continuous disclosure documents that at the date of the prospectus have been filed by the issuer since the commencement of the issuers financial year in which its latest annual information form was filed:
  - i. material change reports (excluding confidential reports)<sup>6</sup>

<sup>6</sup>An issuer is not entitled to file a confidential material change report or to maintain an already filed material change report as confidential during the period of distribution of securities pursuant to a prospectus unless distribution is suspended until the material change is generally disclosed or the decision to implement such material change is rejected.

- ii. comparative interim financial statements;

- iii. comparative financial statements for the issuer's last completed financial year, together with the auditor's report thereon;  
and
  - iv. the issuer's information circular;
- (c) any documents of the type referred to in Item 26.1 (a) and (b) that are filed by the issuer subsequent to the date of the prospectus and prior to the termination of the offering and a statement to that effect shall be contained in the Warrant prospectus; and
- (d) a list of the material change reports filed by the issuer since the filing of the issuer's latest annual information form including the date of filing and a brief description of the material change.

26.2 The prospectus shall contain the following statement:

"Any statement contained in a document incorporated or deemed to be incorporated by reference into this prospectus shall be deemed to be modified or superseded, for purposes of this prospectus, to the extent that a statement contained in the prospectus or in any other subsequently filed document that also is or is deemed to be incorporated by reference into the prospectus modifies or replaces that statement. The making of 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 a 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."

26.3 Upon a new annual information form and the related annual financial statements being filed by an issuer with, and where required, accepted by, the applicable securities regulatory authorities during the currency of a prospectus, the previous annual information form, the previous annual financial statements, all interim financial statements, material change reports and the information circular filed prior to the commencement of the issuer's financial year in which the new annual information form was filed shall no longer be deemed to be incorporated into the prospectus for purposes of future offers and sales of securities thereunder.

#### Item Twenty Seven - Other Material Facts

27.1 Give particulars of any material facts relating to the Warrants proposed to be offered and not disclosed pursuant to the foregoing or in the documents incorporated by reference into the prospectus.

#### Item Twenty Eight - Certificates

28.1 A preliminary short form prospectus and short form prospectus shall contain a certificate in the following form signed by the chief executive officer, the chief financial officer, and, on behalf of the board of directors of the issuer, any two directors of the issuer, other than the foregoing, duly authorized to sign and any person who is a promoter of the issuer:

"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 short form prospectus as required by the securities laws of [insert names of provinces and territories in which qualified] [insert if offering made in Québec - "For the purpose of the Province of Québec this simplified prospectus supplemented by the permanent information record, contains no misrepresentation that is likely to affect the value or the price of the securities to be distributed.""]"

- 28.2 Where there is an underwriter, the preliminary short form prospectus and the short form prospectus shall contain a certificate in the following form 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 security holder whose securities are being offered:

"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 the securities laws of [insert names of provinces and territories in which qualified] [insert if offering made in Québec - "For the purpose of the Province of Québec, to our knowledge, this simplified prospectus, as supplemented by the permanent information record, contains no misrepresentation that is likely to affect the value or the price of the securities to be distributed.""]"