PRIVATE PLACEMENT POLICY

The purpose of this Private Placement Policy (the **Policy**) if to set forth the securities law requirements applicable to MyndTec Inc. (the **Company**) in raising capital through issuing securities by way of private placement. Canadian securities legislation include rules and accompanying guidance with respect to raising capital that the Company and persons acting on its behalf should be aware of in conducting a private placement, including:

- rules which impose conditions on the issuance of securities under exemptions from the prospectus requirement which must be complied with;
- guidance outlining the steps that should be taken to verify the availability of a prospectus exemption;
- rules which prohibit certain representations and conduct in connection with a private placement; and
- rules which impose requirements on the documentation used in marketing a private placement.

Directors, officers, employees and agents of the Company are responsible for ensuring compliance with this Policy every time they are engaged in marketing or conducting a private placement on behalf of the Company, or soliciting purchasers with respect to a private placement by the Company.

This Policy applies to any and all private placements of the Company's securities, including common shares, options to purchase common shares, warrants and any other type of securities that the Company may issue from time to time, including derivative instruments in such securities, that it distributes by way of private placement.

Any breach of this Policy is considered a serious offense which may lead to disciplinary action by the appropriate regulatory authorities, including possible fines. Any failure to adhere to the requirements specified herein also constitute grounds for immediate termination with cause by the Company.

This Policy provides an overview of the exempt market (in Part I) and a summary of the rules and guidance that the Company should be aware of when proceeding with a proposed private placement (in Part II). This Policy is restricted to a discussion of the securities laws of the Province of Ontario except where otherwise indicated.

Part I: Overview of the Exempt Market

1 General

The two principal requirements found in provincial and territorial securities laws regarding the sale of securities are:

(a) that a prospectus be filed and cleared with the appropriate regulators (the **prospectus requirement**); and

(b) that persons involved in the private placement who are, or hold themselves out as being, in the business of trading in securities be registered with the relevant securities regulatory authority (the **registration requirement**).

Securities legislation in each province and territory of Canada provides that where a trade in securities would be a "distribution" in that jurisdiction, the issuer of the securities must file and clear a prospectus in that jurisdiction unless an exemption from the prospectus requirement is available. An issuer which sells previously unissued securities (i.e., securities newly issued from treasury) is undertaking a distribution. The purpose of the prospectus requirement is to attempt to ensure that investors are given a comprehensive disclosure document (the prospectus) that provides "full, true and plain disclosure of all material facts" in respect of the securities offered and the issuer. It should be noted that any action taken in furtherance of a trade (i.e. marketing of securities and solicitation of purchasers) also requires an exemption from the prospectus requirement. An issuer can rely on a combination of prospectus exemptions when issuing securities.

2 Exemptions from the Prospectus Requirement

Securities legislation provides for exemptions from the prospectus requirement. These exemptions reflect a policy decision by the regulators that the purchaser participating in a trade is not in need of the protection of a prospectus. The key private placement exemptions are contained in National Instrument 45-106 – *Prospectus Exemptions* (**NI 45-106**) and common exemptions relied upon include (i) the accredited investor exemption, (ii) the private issuer exemption, (iii) the offering memorandum exemption, (iv) the family, friends and business associates exemption; and (v) the $150,000 minimum amount exemption. An amendment to NI 45-106 is currently open for comment until October 26, 2021 and proposes to introduce a new listed issuer financing exemption. In 2021, Alberta and Saskatchewan have introduced the self-certified investor prospectus exemption and the small business financing exemption. Another new exemption is the crowdfunding exemption contained in National Instrument 45-110 *Start-Up Crowdfunding Registration and Prospectus Exemptions*.

(A) Accredited Investor Exemption

The accredited investor prospectus exemption allows trades of securities to prescribed sophisticated investors defined under securities legislation as "accredited investors". Accredited investors include Canadian financial institutions, registered securities advisers/dealers, provincial and federal governments/agencies, municipalities, foreign governments and pension funds regulated by the Office of the Superintendent of Financial Institutions or a provincial pension authority and a person (not an individual or investment fund) that has net assets of at least $5 million as shown in their most recent financial statements.

There are also four categories of individuals who qualify as accredited investors:

(a) an individual who beneficially owns financial assets having a realizable value, before taxes but net of any related liabilities, in excess of $5 million;

(b) an individual whose net income before taxes exceeded $200,000 (or, together with a spouse, $300,000) in each of the last two most recent calendar years and who, in either case, reasonably expects to exceed this net income in the current year;

(c) an individual who, either alone or with a spouse, has net assets of at least $5 million; and

(d) an individual who, either alone or with a spouse, beneficially owns financial assets having a realizable value, before taxes but net of any related liabilities, in excess of $1 million.

Appendix A sets out a full list of accredited investors. Individual investors who fall within (b), (c) and (d) above must execute a risk acknowledgement form which must be retained by the issuer. Where the accredited investor exemption is being relied upon, public filings must be made with the relevant securities authorities and filing fees must be paid. The filing will either be a fixed fee (eg. Ontario $500), a fee based on the greater of a flat fee and a percentage of the proceeds of the offering (eg. B.C., Alberta) or a percentage of the proceeds of the offering (eg. Quebec). If an offering memorandum (see section 4 of this memo) is used to market the offering to an accredited

investor, the offering memorandum must be delivered to and/or filed with the regulatory authorities in Ontario, New Brunswick or Saskatchewan if a distribution has occurred in one of those jurisdictions.

(B) Private Issuer Exemption

Trades in securities of a private issuer will not be subject to the prospectus requirement provided the following two requirements are satisfied:

(a) the company or issuer whose securities are being issued or otherwise traded must be a "private issuer"; and

(b) the securities must be purchased by "permitted investors" as principals.

A "private issuer" is defined as an issuer:

(a) that is not a reporting issuer or an investment fund,

(b) whose securities, other than non-convertible debt securities,

(i) are subject to restrictions on transfer that are contained in the issuer's constating documents (for i.e., articles of incorporation) or security holders' agreements (for i.e., a warrant indenture), and

(ii) are beneficially owned, directly or indirectly, by not more than 50 persons, not including employees and former employees of the issuer or its affiliates, provided that each person is counted as one beneficial owner unless the person is created or used solely to purchase or hold securities of the issuer in which case each beneficial owner or each beneficiary of the person, as the case may be, must be counted as a separate beneficial owner, and

(c) that has distributed securities (since its incorporation) only to "permitted investors" as described below.

Under this exemption private issuer securities[1] may be privately placed with the following "permitted investors" who purchase as principals:

(a) a director, officer, employee, founder or control person of the issuer,

(b) a director, officer or employee of an affiliate of the issuer;

(c) a spouse, parent, grandparent, brother, sister, child or grandchild of a director, executive officer, founder or control person of the issuer,

(d) a parent, grandparent, brother, sister, child or grandchild of the spouse of a director, executive officer, founder or control person of the issuer,

(e) a "close personal friend" of a director, executive officer, founder or control person of the issuer,

(f) a "close business associate" of a director, executive officer, founder or control person of the issuer,

(g) a spouse, parent, grandparent, brother, sister, child or grandchild of the selling security holder or of the selling security holder's spouse,

[1] Other than short-term securitized products.

(h) a security holder of the issuer,

(i) an accredited investor (see Appendix A),

(j) a person of which a majority of the voting securities are beneficially owned by, or a majority of the directors are, persons described in paragraphs (a) to (i) above,

(k) a trust or estate of which all of the beneficiaries or a majority of the trustees or executors are persons described in paragraphs (a) to (i) above, or

(l) a person that is not the public.

It is a condition of this exemption that, other than in the case of a distribution to an accredited investor, no commission or finders fee may be paid to any director, officer, founder or control person. The advantage of relying on the private issuer exemption is that there is no reporting requirement or filing fee payable to the relevant securities regulatory authorities. The use of a registrant or finder or advertising to locate investors is inconsistent with the use of this exemption according to guidance published by the Ontario Securities Commission (**OSC**).

(C) Offering memorandum exemption

The offering memorandum exemption allows an issuer to issue securities, other than short-term securitized products, if:

(a) the purchaser purchases the securities as principal;

(b) the issuer provides the purchaser with a prescribed form of offering memorandum (**OM**); and

(c) in certain jurisdictions, the issuer obtains a form of risk acknowledgement from the purchaser.

If a purchaser is located in Quebec, the offering memorandum and the risk acknowledgement form must be drawn up in French.

The offering memorandum exemption in Canada has three versions and the applicable regime depends upon where the issuer is distributing its securities:

(a) The **"Ontario, Alberta, New Brunswick, Nova Scotia, Quebec and Saskatchewan Model"**: The key features of this model are:

(i) an OM containing prescribed disclosure (Form 45-106F2 or Form 45-106F3 for qualifying issuers) must be used to market and trade securities but is not reviewed by regulators;

(ii) all marketing materials must be incorporated by reference in the OM. Marketing materials mean any written communication intended for a prospective purchaser which contains material information about the issuer, the securities or the offering but excludes term sheets. Marketing materials will attract the same liability for any misrepresentation contained in it as the OM does;

(iii) any forward looking information (FLI) disseminated must be contained in the OM and comply with securities law disclosure requirements applicable to FLI;

(iv) purchaser must purchase the securities as principal and persons cannot be created solely to rely on the exemption;

(v) the following investment limits are applicable:

(I) non-individual investors can invest an unlimited amount;

(II) eligible investors who are individuals (financial asset/income test[2]) cannot have purchased in excess of $30,000 in the preceding 12 month period. However, if the eligible investor has received advice from a portfolio manager, investment dealer or exempt market dealer that the investment is suitable, this threshold is increased to $100,000; and

(III) non-eligible investors cannot have purchased in excess of $10,000 in the preceding 12 month period.

These investment limits do not apply however if the purchaser is an accredited investor or a person described in the family, friends or business associates exemption;

(vi) the OM and marketing materials must be filed with the regulators within 10 days of distribution and are placed on public record;

(vii) non-reporting issuers who rely on exemption will be designated as market participants and be subject to record keeping and filing obligations (audited annual financial statements, annual notice regarding use of proceeds and in NB, NS and Ontario, a prescribed notice regarding discontinuation of business or change in industry or control of issuer) and compliance reviews;

(viii) not available for investment funds in Ontario, NB and Quebec or certain derivatives or structured finance products in all participating jurisdictions;

(ix) available to investment funds in Alberta, NS and Saskatchewan if fund is a non-redeemable investment fund or a reporting issuer mutual fund;

(x) offering requires mandated rescission rights and rights to damages (2 days from signing agreement); and

(xi) certification is required that the OM contains no misrepresentations;

(xii) Risk Acknowledgement Form required of all investors (Form 45-106F4); and

(xiii) the securities distributed must not be a specified derivative or a structured finance product.

(b) **"Manitoba, NWT, Nunavut, Yukon and Prince Edward Island Model":** Similar exemption to the Ontario exemption, with the following key exceptions:

(i) purchaser must be an eligible investor[3] or the acquisition cost must not exceed $10,000;

(ii) no mandated incorporation by reference or filing of marketing materials required;

---

[2] An "eligible investor" refers to a person whose:
(i) net assets, alone or with a spouse, in the case of an individual, exceed $400 000,
(ii) net income before taxes exceeded $75 000 in each of the 2 most recent calendar years and who reasonably expects to exceed that income level in the current calendar year, or
(iii) net income before taxes, alone or with a spouse, in the case of an individual, exceeded $125 000 in each of the 2 most recent calendar years and who reasonably expects to exceed that income level in the current calendar year.

[3] Please note, in MB, NWT, NT, PEI and YK, an eligible investor includes those persons described in footnote 2 above but also includes, "a person that has obtained advice regarding the suitability of the investment and, if the person is resident in a jurisdiction of Canada, that advice has been obtained from an eligibility adviser" (s. 1.1). This category of "eligible investor" does not apply in any other Canadian jurisdiction.

(iii) if the issuer is an investment fund it is a non-redeemable investment fund or a mutual fund that is a reporting issuer; and

(iv) no continuous disclosure obligations imposed on non-reporting issuers.

(c) **"British Columbia and Newfoundland Model"**: This model is more lenient than the above exemptions. The features that differentiate it from the Ontario and Manitoba exemptions are:

(i) no investment limits;

(ii) available to non-redeemable investment funds or reporting issuer mutual funds;

(iii) no mandated incorporation by reference or filing of marketing materials required;

(iv) no risk acknowledgement form required; and

(v) no continuous disclosure obligations imposed on non-reporting issuers.

The OM provided to investors in reliance on the offering memorandum exemption must be filed with the Canadian securities commissions where a distribution occurs.

(D) Family, Friends and Business Associates Exemption

The "family, friends and business associates" exemption permits an issuer (not just a private issuer) to issue securities[4] of the issuer to a purchaser who purchases as principal and is:

(a) a director, executive officer or control person of the issuer, or of an affiliate of the issuer;

(b) a spouse, parent, grandparent, brother, sister, child or grandchild of a director, executive officer or control person of the issuer, or of an affiliate of the issuer;

(c) a parent, grandparent, brother, sister, child or grandchild of the spouse of a director, executive officer or control person of the issuer, or of an affiliate of the issuer;

(d) a close personal friend or close business associate of a director, executive officer or control person of the issuer, or of an affiliate of the issuer;

(e) a founder of the issuer or a spouse, parent, grandparent, brother, sister, child, grandchild, close personal friend or close business associate of a founder of the issuer;

(f) a parent, grandparent, brother, sister, child or grandchild of the spouse of a founder of the issuer;

(g) a person or company of which a majority of the voting securities are beneficially owned by, or a majority of the directors are, persons or companies described in (a) to (f) above; or

(h) a trust or estate of which all the beneficiaries or a majority of the trustees are persons or companies described in (a) to (f) above.

Payment of a commission or finders fee to a director, executive officer, control person or founder (each a **Principal**) is prohibited. Guidance on the meaning of "close personal friend" and "close business associate" has been issued by the Canadian Securities Administrators (**CSA**) (see Part II). In Ontario the exemption is not available to issuers who are investment funds.

[4] Except short-term securitized products.

Relying on this exemption will require a filing with the relevant securities regulatory authority and the payment of filing fees. Certain investors in Ontario and Saskatchewan relying upon this exemption must sign a risk acknowledgement form (Form 45-106F12 for Ontario and Form 45-106F9 for Saskatchewan) which sets out key risks of the investment which must be acknowledged by the investor and details of the relevant principal with which they have a relationship and the nature of the relationship. The use of a registrant, finder or advertising to locate investors is inconsistent with the use of the exemption according to guidance published by the OSC.

(E) Minimum Purchase Amount Exemption

If the purchaser of securities purchases, as principal, securities of a single issuer with an acquisition cost of not less than $150,000 paid in cash and the purchaser is not an individual, the prospectus requirement will not apply. Relying on this exemption will require a filing with the relevant securities regulatory authorities and the payment of filing fees.

(F) Self-Certified Investor Prospectus Exemption

Effective March 31, 2021, issuers in Alberta and Saskatchewan may rely on the self-certified investor exemption, which will be in effect for three years pursuant to a pilot project. The self-certified investor prospectus exemption allows investors in Alberta and Saskatchewan who do not qualify as an accredited investor to invest alongside accredited investors, provided that they meet other investor criteria intended to demonstrate their financial and investment knowledge.

In the case of an investor who is an individual, the investor must meet at least one of the following qualifying criteria in order to be considered a self-certified investor (the **Qualification Criteria**):

(a) holds a Chartered Financial Analyst (**CFA**) Charter from the CFA Institute;

(b) holds a Canadian Institute of Management (**CIM**) designation from the Canadian Securities Institute (**CSI**);

(c) holds a Chartered Business Valuator (**CBV**) designation from the CBV Institute;

(d) holds a Chartered Professional Accountant (**CPA**) designation in a jurisdiction of Canada from CPA Canada;

(e) holds a Certified International Wealth Manager (**CIWM**) designation from the CSI;

(f) was admitted to practice law in a jurisdiction of Canada, and at least one third of the individual's practice has involved providing advice on financings involving public or private distributions of securities or mergers and acquisitions;

(g) holds an Masters of Business Administration (**MBA**) with a focus on finance from a Canadian university or an accredited foreign university;

(h) holds an undergraduate degree in finance or an undergraduate degree in commerce or business with a major or specialization in finance or investment and that degree is from a Canadian university or an accredited foreign university; or

(i) has passed the Canadian Securities Course or both the Series 7 Exam from the Financial Industry Regulatory Authority in the U.S. and the New Entrants Exam from the CSI and meets the minimum net income requirements of $75,000 in each of the two most recent calendar years and reasonably expects to exceed that income level in the current calendar year or, combined with a spouse, $125,000 in each of the two most recent calendar years and reasonably expects to exceed that income level in the current calendar year.

In the case of an investor that is not an individual, the investor must meet at least one of the following qualifying criteria to be considered a self-certified investor:

(a) the majority of owners of interests of the investor, direct, indirect or beneficial, are accredited investors or meet one of the Qualifying Criteria;

(b) the majority of directors of the investor are accredited investors or meet the Qualifying Criteria, or

(c) the investor is a trust, established or settled by an individual who meets the Qualifying Criteria, which was established for the benefit of that individual's spouse, former spouse, or a parent, grandparent, brother, sister, child or grandchild of the individual or that individual's spouse or former spouse.

The issuer's head office and its investors must be located in Alberta or Saskatchewan to qualify for the exemption.

Under the exemption, self-certified investors may invest up to a maximum of $10,000 in a single issuer and a maximum of $30,000 for all issuers in one calendar year, unless the issuer is listed on a Canadian stock exchange (TSX Venture Exchange, the Toronto Stock Exchange, the Canadian Securities Exchange or Neo Exchange Inc.) and is not in default of its continuing disclosure obligations, and the investor has received advice regarding the suitability of the investment from a registered dealer.

The distribution must be made concurrently to one or more accredited investors and the same information must be provided to all investors.

Relying on this exemption will require the issuer to obtain from the investor a statutory declaration under Annex 1 to Blanket Order 45-538 *Self-Certified Prospectus Exemption*, dated within 36 months of the distribution, and an acknowledgement under Annex 2 to Blanket Order 45-538 *Self-Certified Prospectus Exemption* which confirms the qualification criteria and that the investor acknowledges all risks.

Issuers that do not meet the definition of a private issuer in NI 45-106 must file a completed Form 45-106F1 *Report of Exempt Distribution* in respect of distributions conducted in reliance on the self-certified investor exemption within 10 days of the closing of the transaction.

(G) Small Business Financing Exemption

The small business financing exemption allows non-reporting issuers with a head office in Alberta and Saskatchewan to raise up to $5 million from investors in those provinces using a simple, streamlined offering document with tiered offerings and investment limits that are dependent on whether specified financial statements are provided to purchasers. This exemption helps overcome existing issues with the offering memorandum exemption by permitting financial statements that are prepared in accordance with Generally Accepted Accounting Principles (**GAAP**) for private enterprises that are reviewed rather than audited.

To be eligible, issuers must:

- be a non-reporting issuer,
- have their head office in Alberta or Saskatchewan,
- have a majority of their directors and officers located in Canada, and
- have actual operations (no blank-cheque companies), subject to exceptions if raising money for pre-determined business.

If specified financial statements are not provided, investors can invest up to $2,500 within a 12-month period under the exemption, unless they qualify as a minimum income investor (**Minimum Income Investor**) or have obtained suitability advice, in which case they can invest up to $10,000. If specified financial statements are provided,

investors can invest up to $5,000 within a 12-month period under the exemption, unless they qualify as a Minimum Income Investor or have obtained suitability advice, in which case they can invest up to $20,000.

A Minimum Income Investor, an investor with an annual net income in excess of $75,000 (or $125,000 with their spouse) for the last 2 years and, in the case of non-individuals, a person or company controlled by a MIM, will have a higher investment limit. An accredited investor, family & friends investor, foreign investor, or self-certified investor will have no investment limit. Investors who do not otherwise qualify will have a lower investment limit.

The minimum size of the offering must be specified and must be at least the minimum needed to achieve the issuer's objectives as specified in the offering document. If the minimum funds are not raised within 120 days, the issuer must return all funds.

The maximum size of the offering is dependent on whether specified financial statements are provided. If specified financial statements are not provided, investors will be limited to a $1.5 million maximum limit over a 12-month period and a $5 million lifetime maximum. If specified financial statements are provided, investors will be limited to a $5 million lifetime maximum (with no 12-month period maximum). These limits do not apply to proceeds from accredited investors, family & friends investors, foreign investors, or self-certified investors.

Relying on this exemption will require filing the following documentation: Form 45-539F1 (*Small Business Offering Document* (which will constitute an "offering memorandum")), Form 45-539F2 (*Small Business Risk Acknowledgement*), Form 45-539F3 (*Small Business Undertaking* (only if more than $1.5 million is raised in a 12-month period under the exemption)) and Form 45-106F1 *Report of Exempt Distribution*. The offering memorandum will need to include information about:

- the capital structure and organization of the issuer
- how the issuer will use the proceeds of the offering
- the issuer's current business (including material investments and material contracts) and development plans
- directors and management
- the securities being offered
- tax considerations
- risk factors that investors should take into account when considering an investment
- reporting obligations following the offering
- resale restrictions applicable to the securities being offered
- financial statements (if required)

(H) Start-up Crowdfunding Registration and Prospectus Exemptions

The start-up crowdfunding registration and prospectus exemptions exempts issuers from prospectus requirements if distributing eligible securities through online funding portals.

Eligible issuers can raise up to $1.5 million in a 12-month period through one or more distributions of eligible securities, provided the distributions are facilitated through a portal that operates in compliance with National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions* (**NI 45-110**). Eligible investors can contribute a maximum amount of $2,500 per distribution, with such maximum amount increasing to $10,000

if the investor has received suitability advice from a registered dealer. Issuers may only have one active crowdfunding campaign at any given time.

To be eligible, issuers must:

- be a corporation, limited partnership, general partnership or other association (as defined in NI 45-110),
- have their head office in Canada,
- be offering securities that are eligible equity or debt securities, and
- not be (i) an investment fund, (ii) a reporting issuer, or (iii) an issuer commonly referred to as a "blank check company" without operations other than identifying and evaluating assets or businesses to invest in, merge with, or acquire.

Relying on this exemption will require issuers to complete an offering within 90 days and distribute a written confirmation to each purchaser setting out, among other things, the quantity, price, and description of the securities purchased, and any commissions or fees payable in connection with the offering within 30 days. Issuers must also file with all applicable securities regulators a completed Form 45-106F1 (*Report of Exempt Distribution*) and Form 45-110F1 (*Offering Document*) within the same period.

(l) Proposed Listed Issuer Financing Exemption

The listed issuer financing exemption will allow issuers to rely on their continuous disclosure record, as supplemented with a short offering document, to distribute freely tradeable listed equity securities to the public without a short-form prospectus.

To be eligible, issuers must:

- have securities listed on a Canadian stock exchange,
- have been a reporting issuer for 12 months in at least one jurisdiction in Canada,
- have filed all timely and periodic disclosure documents as required, and
- have active business operations.

The maximum size of the offering during any 12-month period may be the greater of $5 million or 10% of the issuer's market capitalization to a maximum total dollar amount of $10 million, or 100% dilution.

Of note under this exemption, the offering document would not be reviewed by CSA staff before use and there is no requirement for an underwriter to be involved. The offering document would constitute a "core document" forming part of the issuer's continuous disclosure record for purposes of secondary market civil liability. Purchasers would have two options for recourse in the event of a misrepresentation: (i) rights of action under secondary market civil liability or (ii) contractual right of rescission for a period of 180 days following the distribution.

The proposed listed issuer financing exemption is currently subject to a 90-day comment period ending October 26, 2021.

3 The Registration Requirement

Any person or company who is engaged or holds oneself out as being engaged "in the business of" dealing or advising in securities must register with the securities regulatory authority where it carries out its business. Whether or not one is in the business of trading in securities is a question of fact.

Canadian dealers who carry on the business of trading in securities in the exempt market are required to register as an exempt market dealer or may register in the broader category of dealer. Exempt market dealers will be restricted to dealing in prospectus-exempt securities or with persons to whom prospectus-exempt securities can be distributed, as described above. Exempt market dealers will be subject to capital, insurance, proficiency and other compliance requirements.

Where an issuer is not engaging a dealer to distribute its securities (a non-brokered deal), the issuer must also not be in the "business of trading in securities" or it will be required to be registered as an exempt market dealer to trade in the exempt market. This is a factual question but generally an issuer with an "active non-securities business" will not be required to register.

An issuer will not be considered to be in the business of trading in securities where it:

- does not hold itself out as being in the business of trading in securities;
- trades infrequently;
- is not compensated, or expects to be compensated, for the trading;
- does not act as an intermediary; and
- does not produce, or intend to produce, a profit from trading in securities.

A start-up issuer raising capital for its future non-securities business will generally not be required to register.

4 Offering Memorandum and Statutory and Contractual Rights of Action

If in the course of completing its private placement, an issuer (or other person on its behalf) provides any investor with a document that describes the business and affairs of the issuer then additional securities law requirements and liability will arise. Any document to be provided should be reviewed by legal counsel prior to its issuance.

The term "offering memorandum" is broadly defined in the *Securities* Act (Ontario) as:

> "a document, together with any amendments to that document, purporting to describe the business and affairs of an issuer that has been prepared primarily for delivery to and review by prospective investors so as to assist those investors to make an investment decision in respect of securities being sold…"

In Ontario but not in all Canadian jurisdictions, the term "offering memorandum" does not include a document setting out current information about an issuer for the benefit of prospective investors familiar with the issuer through prior investment or business contacts. A term sheet (i.e. a brief outline of the features of an offering which does not extensively describe the business or affairs of an issuer) generally will not be treated as an offering memorandum. The Company should be aware that a set of powerpoint slides or an informal presentation can be an offering memorandum.

There is no requirement to provide an offering memorandum or document to a prospective purchaser of securities in Ontario who is purchasing in the exempt market under either the accredited investor exemption, the private issuer exemption, the friends, family and business associates exemption or the minimum purchase exemption described above. However, if an offering memorandum is delivered to purchasers in Ontario, those purchasers will have a statutory right of action for rescission or damages if the offering memorandum contains an untrue statement of material fact or omits to state a material fact. This right of action is not available to financial institutions. Similar statutory rights exist in other Canadian jurisdictions.

The offering memorandum should contain the following disclosure, some of which is mandatory and some of which is customary in Canada:

- a description of the statutory right of action described above;
- a description of the resale restrictions on the securities;
- if the document contains forward-looking information, such as projections or forecasts, mandated disclosure regarding such information should be included. Such disclosure includes identifying the forward-looking information as such, cautioning users that actual results may vary from the forward-looking information and stating the material facts and assumptions used to develop such information; and
- disclosure of dealer(s) who are related or connected to the issuer of securities (if a dealer is involved).

An issuer is also restricted from making any representation regarding listing of the securities on any stock exchange. A copy of the offering memorandum must be delivered to but is not reviewed by the OSC no more than 10 days after the closing of the private placement. Filing is required in certain other Canadian jurisdictions.[5]

It should be noted that an offering memorandum delivered to accredited investors is not the same as an offering memorandum prepared to rely on the "offering memorandum" exemption described above under "Offering Memorandum Exemption" which OM has prescribed disclosure requirements.

5 Resale Restrictions

In most cases, if a person acquires a security under an exemption from the prospectus requirement instead of under a prospectus, he or she is not immediately free to resell that security unless there is a prospectus exemption available (for eg., a sale to another accredited investor). Securities of a non-reporting issuer will not be freely tradable unless another exemption is available or until the issuer becomes a reporting issuer (i.e. files a prospectus). Once a prospectus is cleared with a securities regulatory authority in Canada such securities become freely tradable.

Part II: Conduct of the Private Placement

1 Duty to Verify Availability of the Relevant Exemption

Determining the availability of a prospectus exemption is the responsibility of the person relying upon the exemption (i.e. the Company as issuer/vendor of the securities). Therefore the Company and those persons assisting it need to be satisfied that an exemption is available **as regards each and every purchaser**. If an exemption is not available to one or more purchasers, the Company may have made an illegal distribution, in which case the illegal sales may be set aside and the Company, as well as its directors, officers, employees and sales agents involved in the offering, may be subject to prosecution and administrative penalties and sanctions. Recent and expanded guidance of the Canadian Securities Administrators (**CSA**) and prior decisions of securities commissions in Canada make it clear that issuers (including the Company) and/or their agents cannot blindly rely upon representations of the purchasers contained in the subscription forms but rather must take "reasonable steps" to confirm an exemption is available. A "tick the box" approach to determining whether a purchaser meets the requirements of the exemption is not acceptable.

What reasonable steps must be taken varies according to the nature of the exemption relied upon, how the sales are being made and the proposed investor. In some cases, the information forming the basis of the exemption will be within the knowledge of the Company or its directors or officers, in which case the Company needs to assess the information and determine whether an exemption is available.

Where exemptions are based on income or asset tests (for eg. accredited investor and in some jurisdictions, the offering memorandum exemption) or where the exemption is based upon a relationship (for eg. private issuer and friends, family and business associates exemptions and, in some jurisdictions, the "eligible investor" portion of the offering memorandum exemption), the Company will have to obtain information from the purchaser in order to confirm the income or asset test or relationship.

While the CSA guidance does not set out specific procedures to follow, they state that the reasonable steps to take regarding verification are dependent on the particular facts and circumstances of the purchaser, the offering and the proposed exemption. Such facts and circumstances include:

- how the particular purchaser was identified or located by the seller;
- what category of accredited investor the purchaser claims to meet;
- what is the claimed relationship between the purchaser and the principal (i.e. director, executive officer, founder or control person of the issuer;

[5] For example, in Quebec any disclosure document delivered to subscribers located in Quebec must be filed without delay with the Autorité des marchés financiers .

- what type of information is already known about the purchaser; and
- whether the person meeting with or providing information to the purchaser is registered under securities laws.

These factors imply that the concerns of the CSA would be heightened where the placement is being made to individuals. In addition if a registrant is involved in the offering, actions with respect to verification may be satisfied if the registrant has policies and procedures in place to solicit the necessary information and is prepared to offer appropriate comfort to the issuer. The CSA may require an issuer to explain the “reasonable steps” taken to insure the exemption is available.

2 General Procedures

The availability of many of the prospectus exemptions is, partly or wholly, dependent upon facts pertaining to the prospective investor for which the Company must rely upon the prospective investor for the information. This is applicable where the prospective purchaser must be purchasing the securities "as principal" (i.e. solely for the account of the purchaser and not for anyone else's benefit), is often the case in using the "accredited investor" exemption (where the net worth and/or the income of the investor may be relevant to the availability of the exemption), and when using the private issuer and the friends, family and business associates exemptions Subscription agreements are generally drafted to elicit the necessary information from the prospective purchaser. **This information can be relied upon only if the Company has taken reasonable steps to ensure that the securities are sold only to prospective purchasers who understand the terms of the exemption and confirm that they qualify for the exemption.** The Company and its officers and directors have a responsibility to supervise the activities of any agents used in marketing the private placement. The following general procedures should be considered by the Company in circumstances where the availability of the exemption relies on information provided by the prospective purchaser:

(a) where potential purchasers are dealing directly with a registrant, ensure the agency or underwriting agreement contains an undertaking by the registrant to comply with the rules and guidance of the CSA, retain all documentation related to the purchaser for a period of eight years from the date of acquisition and provide copies of such materials to the Company either on demand or upon closing;

(b) where subscription agreements and other information are provided by a dealer registered under the applicable securities laws, the Company should ensure that the dealer agrees to takes reasonable steps to ensure that subscription agreements and information are only provided to prospective purchasers who qualify as purchasers under the exemptions being used in the offering;

(c) if the offering does not involve a registrant who meets with prospective purchasers, (ie. a non-brokered deal), the Company should identify within its organization and possibly outside its organization the individuals who are permitted to meet with and provide information to potential investors. The Company may wish to restrict the number of such persons and require that such persons be executive officers of the Company;

(d) educate persons permitted by the Company to meet with potential investors about the conditions of the relevant exemptions so that they are able to explain them clearly to a potential investor. Consider the preparation of a meeting script or questionnaire that should elicit the necessary information from the proposed purchaser. Designate a person within the Company or outside the Company (eg. legal counsel) to answer any questions that may arise;

(e) advise all persons who are authorized by the Company to meet with potential investors to elicit the information necessary to determine the availability of the exemption **before** proceeding to discuss the investment with a proposed purchaser**;**

(f) where information may be provided by persons who are identified by the Company to meet with potential clients the Company should ensure that:

(i) such persons understand the importance of the exemptions to be relied upon and the necessity of strict compliance with the terms of the exemptions in selling the securities;

(ii) such persons explain to the prospective purchasers that under applicable securities laws the purchaser cannot purchase the securities unless the purchaser qualifies under an applicable exemption and confirms that the prospective purchaser understands the terms of the exemption being claimed;

(iii) subscriptions are accepted only from persons who confirm the financial and other details required to support that the prospective purchaser does in fact meet the requirements of the exemption as indicated in the Subscription Agreement; and

(iv) a written record of any discussions relating to the offering (including all e-mails, other correspondence, notes of meetings, whether in person, by telephone or other electronic means) shall be made and retained for a period of eight years from the date of acquisition of the securities to provide a due diligence record to support the use of the exemptions.

The CSA guidance states that if there is any doubt as to whether a proposed purchaser meets the criteria of the exemption, the investment by that purchaser should not proceed.

3 Verifying Purchaser Status for Accredited Investor and Eligible Investor Status for Offering Memorandum Exemption

An issuer must take ”reasonable steps” to verify accredited or eligible investor status for the offering memorandum exemption. It is not acceptable for the seller to rely solely on a form of certificate contained in a subscription agreement. Where dealing with institutional investors, the status of investors is generally easier to verify. In the context of an individual inquiries about the purchaser’s net income, financial assets, net assets and liabilities must be made. If there are concerns further questions should be asked and the seller may need documentation to confirm the status of the purchaser. Such documentation must be retained for eight years.

In addition to the general procedures set out above, the following steps should be taken:

(a) ensure any person meeting with potential purchasers understands the following terms associated with the accredited investor and/or offering memorandum exemptions:

(i) *“financial assets”* means cash, securities or a contract of insurance, a deposit or an evidence of deposit that is not a security for the purposes of securities legislation. Note that a bank account would be considered a financial asset but real estate owned by the purchaser would not be;

(ii) “*related liabilities*” means liabilities incurred or assumed for the purpose of financing the acquisition or ownership of financial assets or liabilities that are secured by financial assets. As the two thresholds for financial assets set out in the definition of individual accredited investor require the issuer to calculate such assets net of any related liabilities, the representative of the issuer should ask about any such liabilities. For example, have any securities owned by the proposed investor been pledged as security by the purchaser? If so the value of those securities would need to be excluded from the calculation of financial assets; and

(iii) the difference between *net assets* and *financial assets*. Net assets would include real estate and other assets that do not constitute financial assets. In determining net assets

it is necessary to deduct all liabilities of the purchaser not just the related liabilities as is the case with financial assets. Real estate may be included in calculating net assets.

Applying these definitions to the categories of individual accredited investors which are described in Appendix A, an individual with financial assets before taxes and net of related liabilities in excess of $5 million would qualify under section (j.1). As the threshold of the financial assets calculation of $1 million was also reached they would also meet the test of accredited investor set out in section j, however, they should be designated in (j.1) if they also meet the higher test. The distinction is important because those individuals who meet the highest test set out in section (j.1) will not be required to sign a Risk Acknowledgment Form (Form 45-106F9) whereas other individual accredited investors would be required to sign the Form. See Appendix B for the relevant Form;

(b) the persons meeting with a potential individual purchaser should ask detailed questions about the income and assets of the individual purchaser. Questions that might elicit further details about assets or income could include asking what the nature of the assets are and the breakdown of the assets and liabilities and the proposed purchaser's occupation and current employment. While these will not necessarily satisfy the exemption they will solicit further information regarding the purchaser;

(c) if the officer or agent has concerns as to whether the criteria are met, then it is appropriate to ask for external evidence to satisfy himself or herself that the tests have been met. Such information could include copies of income tax returns/assessments (or the relevant sections of the forms), copies of statements of financial assets such as RRSPs, TFSA or other brokerage statements. Advise the potential purchaser of the purpose of requesting the information and that such information must be retained for a period of eight years from the date of acquisition. If such documentation is not readily available consider whether the proposed purchaser would allow contact with his or her financial advisor, accountant or other advisor with knowledge of his or her affairs.

4 Verifying Purchaser Status for Family, Friends and Business Associates and Private Issuer Exemptions

Where the exemption to be used is based on a prior existing relationship of the prospective purchaser with a Principal, such as the exemption for a sale to a close personal friend or close business associate of a Principal of the Company, information must be solicited to establish the relationship. While the prospective purchaser may complete the subscription agreement on the basis that this relationship exists, the completion of the agreement by the prospective purchaser is not sufficient if the underlying facts do not objectively support the existence of the relationship. Also be aware that if the investment does not go well, the prospective purchaser may be less inclined to subsequently agree that the relationship was "close". Therefore the Company should take steps to verify the underlying facts intended to support the availability of the exemption.

The CSA guidance provides that whether or not someone should be considered a close personal friend depends a number of factors, such as the existence of a direct relationship between the individual and the Principal, the length the potential investor has known the relevant Principal, the nature of the relationship, the frequency of contact, the level of trust the potential investor has in the Principal and the number of other close personal friends of the relevant Principal to whom securities have been previously issued or are to be issued in reliance on this exemption. Each of the following facts will not by themselves establish an individual as a close personal friend:

(a) a relative;

(b) a member of the same club, organization, association or religious group;

(c) a co-worker or colleague at the same work place;

(d) a current or former client or customer;

(e) an acquaintance; or

(f) a social media contact.

In determining whether a person is a close business associate, the individual must have had sufficient direct business dealings with a Principal of the Company to be in a position to assess their capability and trustworthiness and to obtain information regarding the investment from them. Factors to consider include the length of the relationship, the nature and length of specific business dealings and when such dealings began and, if applicable, terminated, the frequency of contact and the number of close business associates of the relevant Principal to whom securities have been issued to in reliance on this criteria. The guidance identifies the same six factors as not solely determining that someone is a close business associate as applies to close personal friend.

In addition to following the general procedures described above and questions should be asked to confirm the existence of the relevant relationship. Independent evidence of business dealings could include records relating to co-ownership, co-directorships, contractual documents, etc. In establishing that an individual constitutes a close personal friend, the guidance indicates that the issuer could require the purchaser to give a signed statement describing the nature of the relationship and the length of time the individual has known the Principal. All non-registered persons permitted by the Company to meet with potential investors should be made aware of the details of the CSA guidance to enable them to clearly explain the exemption and also to be able to identify any areas of concern that arise during a discussion with a potential purchaser.

5 Prohibited Representations and Conduct

The securities laws in Canada include general prohibitions applicable to trading in securities that must be complied with in connection with private placements. These prohibitions include:

- making any representation that any person will resell or repurchase a security or refund the purchase price of the security except where the terms of the security provide for the redemption or repurchase or in Ontario where the representation is in an enforceable written agreement and the security has an aggregate acquisition cost of more than $50,000;
- giving any undertaking written or oral relating to the future value or price of the security;
- except with the consent of the applicable securities regulatory authorities, making any written or oral representation that:
    - the security will be listed on any stock exchange or quoted on any trade reporting system;
    - application has been made to list or quote the security; or
    - application will be made to list the security

  unless application to list or quote the securities has been made and the issuer is currently listed or the stock exchange or quotation system has granted approval to the listing or quotation or has consented to, or indicated that it does not object to the representation;
- making a misrepresentation (i.e. an untrue statement of a material fact, an omission to state a material fact required to be stated, and an omission to state a material fact that is necessary to be stated in order for a statement not to be misleading) in connection with the sale of the security;
- engaging in any unfair practice which includes:
    - putting unreasonable pressure on a person to buy, sell or hold a security;
    - taking advantage of a person's inability or incapacity to reasonably protect his or her own interest because of physical or mental infirmity, ignorance, illiteracy, age or inability to understand the character, nature or language of any matter relating to a decision to purchase, hold or sell a security; and

    - imposing terms or conditions that are harsh, oppressive or excessively one-sided;
- representing that the person is offering to trade at market unless the person believes that a real market exists that is not controlled by the person;
- making any representation that any securities commission has reviewed or passed upon the merits of the securities offered or the documentation used in the private placement; and
- engaging or participating in any act or conduct relating to a security that the person knows or reasonably ought to know will:
    - result in or contribute to a false or misleading appearance of trading activity in a security or an artificial price for a security; or
    - perpetrate a fraud on any person.

Although not all of these prohibitions are specifically contained in the securities laws of all of the jurisdictions in Canada, it is good practice to take steps to ensure that those who are selling the securities are aware of and comply with these general prohibitions as failure to do so could be considered by securities commissions as conduct that is contrary to the public interest and subject those involved in such conduct to proceedings. Canadian securities regulators have a broad power to proscribe and potentially to sanction conduct which they determine is "contrary to the public interest", whether or not that conduct violates any specific restrictions or provisions. Decisions of the securities commissions have held that statements made which do not go so far as to violate the specific rules could be found to be a misrepresentation or contrary to the public interest if there was not a reasonable basis for the statement or appropriate cautions were not provided. For example the Alberta Securities Commission has held that discussions about listings, which did not violate the specific restrictions because the statements did not specifically say the securities were currently listed or that application had been or would be made to list the securities, were conduct contrary to the public interest, because the discussions were without appropriate caveats.

Securities commissions have also found the issuer/vendor of the securities responsible for the statements and conduct of its agents. Accordingly, issuers/vendors should ensure that its officers, directors, employees and other agents involved in the offering are aware of these prohibitions.

6 Confirmation of Compliance with these Policies and Procedures

Prior to the closing of any financing by way of private placement, the Chief Executive Officer and the Chief Financial Officer will certify that the Company has complied with these policies and procedures.

APPENDIX A

ACCREDITED INVESTOR

(a) (i) except in Ontario, a Canadian financial institution or a Schedule III bank; or;

(ii) in Ontario, (A) a bank listed in Schedule I, II or III to the Bank Act (Canada); (B) an association to which the Cooperative Credit Association Act (Canada) applies or a central cooperative credit society for which an order has been made under subsection 473(1) of that Act; or (C) a loan corporation, trust corporation, insurance company, treasury branch, credit union, caisse populaire, financial services cooperative or credit union league or federation that is authorized by a statute of Canada or Ontario to carry on business in Canada or Ontario, as the case may be;;

(b) the Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada);

(c) a subsidiary of any person referred to in paragraphs (a) or (b), if the person owns all of the voting securities of the subsidiary, except the voting securities required by law to be owned by directors of that subsidiary;

(d) a person registered under the securities legislation of a jurisdiction of Canada as an adviser or dealer;

(e) an individual registered under the securities legislation of a jurisdiction of Canada as a representative of a person referred to in paragraph (d);

(e.1) an individual formerly registered under the securities legislation of a jurisdiction of Canada, other than an individual formerly registered solely as a representative of a limited market dealer under one or both of the *Securities Act* (Ontario) or the *Securities Act* (Newfoundland and Labrador);

(f) the Government of Canada or a jurisdiction of Canada, or any crown corporation, agency or wholly owned entity of the Government of Canada or a jurisdiction of Canada;

(g) a municipality, public board or commission in Canada and a metropolitan community, school board, the Comité de gestion de la taxe scolaire de l'île de Montréal or an intermunicipal management board in Québec;

(h) any national, federal, state, provincial, territorial or municipal government of or in any foreign jurisdiction, or any agency of that government;

(i) a pension fund that is regulated by the Office of the Superintendent of Financial Institutions (Canada), a pension commission or similar regulatory authority of a jurisdiction of Canada;

(j) an individual who, either alone or with a spouse, beneficially owns financial assets having an aggregate realizable value that, before taxes, but net of any related liabilities, exceeds $1,000,000; **** If purchaser checks this category, it must also complete, sign and return the 'risk acknowledgement' on Form 45-106F9**

(j.1) an individual who beneficially owns financial assets having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds $5 000 000;

(k) an individual whose net income before taxes exceeded $200,000 in each of the 2 most recent calendar years or whose net income before taxes combined with that of a spouse exceeded $300,000 in each of the 2 most recent calendar years and who, in either case, reasonably expects to exceed that net income level in the current calendar year; **** If purchaser checks this category, it must also complete, sign and return the 'risk acknowledgement' on Form 45-106F9;**

(l) an individual who, either alone or with a spouse, has net assets of at least $5,000,000; **** If purchaser checks this category, it must also complete, sign and return the 'risk acknowledgement' on Form 45-106F9**;

(m) a person, other than an individual or investment fund, that has net assets (total assets less total liabilities) of at least $5,000,000 as shown on its most recently prepared financial statements;

(n) an investment fund that distributes or has distributed its securities only to:

(i) a person that is or was an accredited investor at the time of the distribution,

(ii) a person that acquires or acquired securities in the circumstances referred to in Sections 2.10 **[Minimum amount investment]** and 2.19 **[Additional investment in investment funds]** of NI 45-106, or;

(iii) a person described in paragraph (i) or (ii) that acquires or acquired securities under Section 2.18 **[Investment fund reinvestment]** of NI 45-106;

(o) an investment fund that distributes or has distributed securities under a prospectus in a jurisdiction of Canada for which the regulator, or in Québec, the securities regulatory authority, has issued a receipt;

(p) a trust company or trust corporation registered or authorized to carry on business under the *Trust and Loan Companies Act* (Canada) or under comparable legislation in a jurisdiction of Canada or a foreign jurisdiction, acting on behalf of a fully managed account managed by the trust company or trust corporation, as the case may be;

(q) a person acting on behalf of a fully managed account managed by that person, if that person is registered or authorized to carry on business as an adviser or the equivalent under the securities legislation of a jurisdiction of Canada or a foreign jurisdiction;

(r) a registered charity under the *Income Tax Act* (Canada) that, in regard to the trade, has obtained advice from an eligibility adviser or an adviser registered under the securities legislation of the jurisdiction of the registered charity to give advice on the securities being traded;

(s) an entity organized in a foreign jurisdiction that is analogous to any of the entities referred to in paragraphs (a) through (d) or paragraph (i) in form and function;

(t) a person in respect of which all of the owners of interests, direct, indirect or beneficial, except the voting securities required by law to be owned by directors, are persons that are accredited investors;

(u) an investment fund that is advised by a person registered as an adviser or a person that is exempt from registration as an adviser;

(v) a person that is recognized or designated by the securities regulatory authority or, except in Ontario and Québec, the regulator as an accredited investor; or

(w) a trust established by an accredited investor for the benefit of the accredited investor's family members of which a majority of the trustees are accredited investors and all of the beneficiaries are the accredited investor's spouse, a former spouse of the accredited investor or a parent, grandparent, brother, sister, child or grandchild of that accredited investor, of that accredited investor's spouse or of that accredited investor's former spouse;

As used in this Certificate, the following terms have the following meanings:

Canadian financial institution means:

(a) an association governed by the *Cooperative Credit Associations Act* (Canada) or a central cooperative credit society for which an order has been made under section 473(1) of the Act; or

(b) a bank listed in Schedule I or II of the *Bank Act* (Canada), loan corporation, trust company, trust corporation, insurance company, treasury branch, credit union, caisse populaire, financial services cooperative, or league that, in each case, is authorized by an enactment of Canada or a jurisdiction of Canada to carry on business in Canada or the La Confédération des caisses populaires et d'économie du Québec;

control person has the same meaning as in the relevant securities legislation;

director means

(a) a member of the board of directors of a company or an individual who performs similar functions for a company, and

(b) with respect to a person that is not a company, an individual who performs functions similar to those of a director of a company;

eligibility adviser means

(a) a person that is registered as an investment dealer and authorized to give advice with respect to the type of security being distributed, and

(b) in Saskatchewan or Manitoba, also means a lawyer who is a practicing member in good standing with a law society of a jurisdiction of Canada or a public accountant who is a member in good standing of an institute or association of chartered accountants, certified general accountants or certified management accountants in a jurisdiction of Canada provided that the lawyer or public accountant must not:

(c) have a professional, business or personal relationship with the issuer, or any of its directors, executive officers, founders, or control persons, and

(d) have acted for or been retained personally or otherwise as an employee, executive officer, director, associate or partner of a person that has acted for or been retained by the issuer or any of its directors, executive officers, founders or control persons within the previous 12 months;

executive officer means, for an issuer, an individual who is

(a) chair, vice-chair or president,

(b) a vice-president in charge of a principal business unit, division or function including sales, finance or production, or

(c) performing a policy-making function in respect of the issuer;

financial assets means

(a) cash,

(b) securities, or

(c) a contract of insurance, a deposit or an evidence of a deposit that is not a security for the purposes of securities legislation;

foreign jurisdiction means a country other than Canada or a political subdivision of a country other than Canada;

founder means, in respect of an issuer, a person who,

(a) acting alone, in conjunction, or in concert with one or more persons, directly or indirectly, takes the initiative in founding, organizing or substantially reorganizing the business of the issuer, and

(b) at the time of the distribution or trade is actively involved in the business of the issuer;

fully managed account means an account of a client for which a person makes the investment decisions if that person has full discretion to trade in securities for the account without requiring the client's express consent to a transaction;

individual means a natural person, but does not include

(a) a partnership, unincorporated association, unincorporated syndicate, unincorporated organization or a trust, or

(b) a natural person in the person's capacity as trustee, executor, administrator or other legal personal representative;

investment fund has the same meaning as in National Instrument 81-106 *Investment Fund Continuous Disclosure*;

jurisdiction means a province or territory of Canada except when used in the term "foreign jurisdiction";

local jurisdiction means the jurisdiction in which the applicable Canadian securities regulatory authority is situate;

mutual fund has the meaning ascribed to it under the securities legislation of the local jurisdiction;

non-redeemable investment fund means an issuer,

(a) whose primary purpose is to invest money provided by its security holders,

(b) that does not invest:

(i) for the purpose of exercising or seeking to exercise control of an issuer, other than an issuer that is a mutual fund or a non-redeemable investment fund, or

(ii) for the purpose of being actively involved in the management of any issuer in which it invests, other than an issuer that is a mutual fund or a non-redeemable investment fund, and

(c) that is not a mutual fund;

person includes

(a) an individual,

(b) a corporation,

(c) a partnership, trust, fund and an association, syndicate, organization or other organized group of persons, whether incorporated or not, and

(d) an individual or other person in that person's capacity as a trustee, executor, administrator or personal or other legal representative;

regulator means, for the local jurisdiction, the person referred to in Appendix D of National Instrument 14-101 opposite the name of the local jurisdiction;

related liabilities means

(a) liabilities incurred or assumed for the purpose of financing the acquisition or ownership of financial assets, or

(b) liabilities that are secured by financial assets;

Schedule III bank means an authorized foreign bank named in Schedule III of the *Bank Act* (Canada);

spouse means an individual who,

(a) is married to another individual and is not living separate and apart within the meaning of the *Divorce Act* (Canada), from the other individual,

(b) is living with another individual in a marriage-like relationship, including a marriage-like relationship between individuals of the same gender, or

(c) in Alberta, is an individual referred to in paragraph (a) or (b), or is an adult interdependent partner within the meaning of the *Adult Interdependent Relationships Act* (Alberta); and

subsidiary means an issuer that is controlled directly or indirectly by another issuer and includes a subsidiary of that subsidiary.

Control

A person (first person) is considered to control another person (second person) if

(a) the first person beneficially owns or, directly or indirectly, exercises control or direction over securities of the second person carrying votes which, if exercised, would entitle the first person to elect a majority of the directors of the second person, unless that first person holds the voting securities only to secure an obligation,

(b) the second person is a partnership, other than a limited partnership, and first person holds more than 50% of the interests of the partnership, or

(c) the second person is a limited partnership and the general partner of the limited partnership is the first person.

All monetary references are in Canadian Dollars.

APPENDIX B

FORM 45-106 F9

FORM FOR INDIVIDUAL ACCREDITED INVESTORS

WARNING! **THIS INVESTMENT IS RISKY. DON'T INVEST UNLESS YOU CAN AFFORD TO LOSE ALL THE MONEY YOU PAY FOR THIS INVESTMENT**

SECTION 1 TO BE COMPLETED BY THE ISSUER OR SELLING SECURITY HOLDER	
1. About your investment	
Type of securities: *[Instruction: Include a short description, ie., common shares.]*	Issuer:
Purchased from: *[Instruction: Indicate whether securities are purchased from the issuer or a selling security holder.]*	
2. Risk acknowledgement	
This investment is risky. Initial that you understand that:	**Your Initials**
Risk of loss – You could lose your entire investment of $_____ . *[Instruction: Insert the total dollar amount of the investment.]*	
Liquidity risk – You may not be able to sell your investment quickly – or at all.	
Lack of information – You may receive little or no information about your investment.	
Lack of advice – You will not receive advice from the salesperson about whether this investment is suitable for you unless the salesperson is registered. The salesperson is the person who meets with, or provides information to, you about making this investment. To check whether the salesperson is registered, go to www.aretheyregistered.ca	
3. Accredited investor status	
You must meet at least one of the following criteria to be able to make this investment. Initial the statement that applies to you. (You may initial more than one statement.) The person identified in section 6 is responsible for ensuring that you meet the definition of accredited investor. That person, or the salesperson identified in section 5, can help you if you have questions about whether you meet these criteria.	**Your Initials**
• Your net income before taxes was more than $200,000 in each of the 2 most recent calendar years, and you expect it to be more than $200,000 in the current calendar year. (You can find your net income before taxes on your personal income tax return.)	

• Your net income before taxes combined with your spouse's was more than $300,000 in each of the 2 most recent calendar years, and you expect your combined net income before taxes to be more than $300,000 in the current calendar year.	
• Either alone or with your spouse, you own more than $1 million in cash and securities, after subtracting any debt related to the cash and securities.	
• Either alone or with your spouse, you have net assets worth more than $5 million. (Your net assets are your total assets (including real estate) minus your total debt.)	

4. Your name and signature

By signing this form, you confirm that you have read this form and you understand the risks of making this investment as identified in this form.

First and last name (please print):

Signature:	Date:

SECTION 5 TO BE COMPLETED BY SALESPERSON

5. Salesperson information

[Instruction: The salesperson is the person who meets with, or provides information to, the purchaser with respect to making this investment. That could include a representative of the issuer or selling security holder, a registrant or a person who is exempt from the registration requirement.]

First and last name of salesperson (please print):

Telephone	Email:

Name of firm (if registered):

SECTION 6 TO BE COMPLETED BY THE ISSUER OR SELLING SECURITY HOLDER

6. For more information about this investment

For investment in a non-investment fund

[Insert name of issuer/selling security holder]
[Insert address of issuer/selling security holder]
[Insert contact person name, if applicable]
[Insert telephone number]
[Insert email address]
[Insert website address, if applicable]

For investment in an investment fund

[Insert name of investment fund]
[Insert name of investment fund manager]
[Insert address of investment fund manager]
[Insert telephone number of investment fund manager]
[Insert email address of investment fund manager]
[If investment is purchased from a selling security holder, also insert name, address, telephone number and email address of selling security holder here]

For more information about prospectus exemptions, contact your local securities regulator. You can find contact information at www.securities-administrators.ca.

Form instructions:

1. This form does not mandate the use of a specific font size or style but the font must be legible.
2. The information in sections 1, 5 and 6 must be completed before the purchaser completes and signs the form.
3. The purchaser must sign this form. Each of the purchaser and the issuer or selling security holder must receive a copy of this form signed by the purchaser. The issuer or selling security holder is required to keep a copy of this form for 8 years after the distribution.