

IN THE MATTER OF THE *SECURITIES ACT*,
R.S.N.W.T. 1988, ch. S-5, AS AMENDED

BLANKET ORDER NO. 1

WHEREAS subsection 27(2)(b) of the *Securities Act* provides that no person or corporation shall trade in any security unless the person or corporation files a prospectus or statement of material facts with the Registrar, or unless the Registrar has ordered that a prospectus or statement of material facts need not be filed;

AND WHEREAS the Registrar is of the opinion that certain trades in securities which are statutorily exempt from the filing requirements in other jurisdictions should also be exempt in the Northwest Territories without the need to apply for a separate exemption for each trade;

IT IS ORDERED THAT:

1. (1) In this Order, the following definitions shall apply:

"*Act*" includes the regulations made under that *Act*;

"**contract**" includes a trust agreement, declaration of trust or other similar instrument;

"**contractual right of action**" means a right of action against a vendor or issuer of securities for rescission or damages which right is available to a purchaser of those securities if the offering memorandum in which the right of action is described or other information supplied by or on behalf of the vendor or issuer to the purchaser to assist the purchaser to make an investment decision in respect of those securities contains a misrepresentation and which right provides:

- (i) the purchaser with contractual rights the terms of which reasonably correspond to the statutory rights given to a purchaser who purchases securities in a trade to which section 30 of the *Securities Act* applies;
- (ii) that the right of action is in addition to and without derogation from any other right which the purchaser may have at law;
- (iii) that the enforcement of the right of action is subject to the time limitation contained in section 30 of the *Securities Act*, and
- (iv) that the right of action is subject to the defence and limitations contained in section 30 of the *Securities Act*;

"**control person**" means any person or corporation or any combination of persons and corporations holding:

- (i) a sufficient number of any of the securities of an issuer so as to affect materially the control of that issuer; or
- (ii) more than 20% of the voting rights attached to all outstanding voting securities of the issuer, except where there is evidence showing that the holding of those voting rights does not affect materially the control of that issuer;

"director" includes an individual acting in a capacity similar to that of a director of a corporation;

"distribution" where used in relation to a trade in a security, means a trade:

- (i) in a security of an issuer that has not been previously issued;
- (ii) by or on behalf of an issuer in a previously issued security of that issuer that has been redeemed or purchased by or donated to that issuer;
- (iii) in a previously issued security of an issuer from the holdings of a control person;
- (iv) in a security of an issuer by a promoter of the issuer;
- (v) in a security of an issuer by an incorporator or organizer of the issuer;
- (vi) by an underwriter in a security which was acquired by the underwriter acting as underwriter before, on or after the coming into force of this Order;

and includes any transaction or series of transactions involving a purchase and sale or a repurchase and resale in the course of or incidental to a distribution;

"financial institution" means

- (i) a bank listed in Schedule I or II to the *Bank Act* (Canada) or the Business Development Bank of Canada continued pursuant to the *Business Development Bank of Canada Act* (Canada);
- (ii) a trust corporation or a loan corporation licensed as such under an Act of the Parliament of Canada or the laws of a province or territory;
- (iii) an insurance company licensed pursuant to the *Insurance Act*; and
- (iv) a credit union or federation incorporated or registered under the *Credit Union Act* and includes the Credit Union Mutual Aid Depository Fund;

"issuer" means a person who or corporation that:

- (i) has outstanding securities;
- (ii) is issuing a security; or
- (iii) proposes to issue a security;

"mutual fund" includes an issuer of a security that entitles the holder to receive on demand, or within a specified period after demand, an amount computed by reference to the value of proportionate interest in the whole or in a part of the net assets, including a separate fund or trust account, of the issuer of the security;

"offering memorandum" means a document that:

- (i) sets forth information concerning the business and affairs of an issuer; and

- (ii) has been prepared primarily for prospective purchasers to assist those purchasers to make an investment decision with respect to securities being sold pursuant to a trade that is made in reliance on an exemption set out in this Order;

"officer" means the chairman and any vice-chairman of the board of directors, the president, any vice-president, the secretary, the assistant secretary, the treasurer, the assistant treasurer, the comptroller and the general manager of a corporation, and includes any person:

- (i) designated as an officer of a corporation by bylaw or similar authority; or
- (ii) acting in a capacity similar to a chairman, vice-chairman, president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, comptroller or general manager on behalf of an issuer or registrant;

"person" means any individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator or other legal representative;

"private corporation" means a corporation in whose articles of incorporation or other instrument legally constituting that corporation:

- (i) the right to transfer shares is restricted;
- (ii) the number of its shareholders, other than:
 - (A) individuals who are in its employment or the employment of an affiliate, and
 - (B) individuals who, having been formerly in the employment of the issuer or of an affiliate, were, while in that employment, and have continued after termination of that employment to be, shareholders of the issuer;

is limited to not more than 50, two or more individuals who are the joint registered owners of one or more shares being counted as one shareholder; and

- (iii) any invitation to the public to subscribe for its securities is prohibited;

"private mutual fund" means a mutual fund that is operated as an investment club, where:

- (i) its securities are held by not more than 50 persons;
- (ii) its securities have never been offered to the public;
- (iii) it does not pay or give any remuneration for investment advice or with respect to trades in securities, except normal brokerage fees; and
- (iv) all of its members are required to make contributions in proportion to the securities each holds for the purpose of financing its operations;

"promoter", where used in relation to an issuer, means:

- (i) a person who or corporation that, acting alone or in conjunction with one or more other persons

or corporations or a combination of persons and corporations, directly or indirectly, takes the initiative in founding, organizing or substantially reorganizing the business of the issuer; or

(ii) a person who or corporation that, in connection with the founding, organizing or substantial reorganizing the business of the issuer, directly or indirectly, receives in consideration of services or property or both services and property 10% or more of:

(A) any class of securities of the issuer; or

(B) the proceeds from the sale of any class of securities of a particular issue;

but does not include a person who or corporation that does not otherwise take part in founding, organizing or substantially reorganizing the business of the issuer and who is a person who or corporation that receives those securities or proceeds mentioned in this subclause either solely as underwriting commissions or solely in consideration of property;

"province" means a province or territory of Canada

"senior officer" means:

(i) the chairman or vice-chairman of the board of directors, the president, a vice-president, the secretary, the treasurer or the general manager of a corporation or any other individual who performs functions for an issuer similar to those normally performed by an individual occupying any such office; and

(ii) each of the five highest paid employees of an issuer, other than commissioned salespersons who do not act in a management capacity, including any individual mentioned in clause (i);

"spousal equivalent" means, in relation to any individual, another individual with whom that individual is living in a conjugal relationship outside marriage;

"underwriter" means a person who or corporation that:

(i) as principal, agrees to purchase a security with a view to distribution; or

(ii) as agent, offers for sale or sells securities in connection with a distribution;

and includes a person who or corporation that has direct or indirect participation in any such distribution, but does not include:

(iii) a person or corporation whose interest in the transaction is limited to receiving the usual and customary distributor's or seller's commission payable by an underwriter or issuer;

(iv) a mutual fund that, pursuant to the laws of the jurisdiction to which it is subject, accepts its shares or units for surrender and resells them;

(v) an issuer that, where permitted by the laws of the jurisdiction to which it is subject, purchases its shares or units and resells them; or

(vi) a bank listed in Schedule I or II to the *Bank Act* (Canada) or the Business Development Bank of Canada continued pursuant to the *Business Development Bank of Canada Act* (Canada) with respect to term securities described in paragraph (3)(aa);

"variable insurance contract" means a contract of life insurance under which the interest of the purchaser is valued for purposes of conversion or surrender by reference to the value of a proportionate interest in a specified portfolio of assets.

(2) For the purpose of this Order:

(a) a trust corporation is deemed to be acting as principal when it trades or purchases a security as trustee or as agent for accounts fully managed by it;

(b) a broker is deemed to be acting as principal when the broker trades or purchases a security as agent for accounts fully managed by that broker;

(c) an issuer is deemed to be an affiliate of another issuer where:

(i) one of them is the subsidiary of the other;

(ii) both are subsidiaries of the same issuer; or

(iii) each of them is controlled by the same person or corporation;

(d) an issuer is deemed to be a subsidiary of another issuer where it is:

(i) controlled by:

(A) that other issuer;

(B) that other issuer and one or more issuers each of which is controlled by that other issuer; or

(C) two or more issuers each of which is controlled by that other issuer; or

(ii) a subsidiary of an issuer that is that other issuer's subsidiary;

2. A prospectus or statement of material facts need not be filed with the Registrar in respect of a trade which is not a distribution where

(a) the trade would be exempted under section 3 if it was a distribution;

(b) the issuer is a reporting issuer under the laws of a province and the holders of securities of the issuer resident in the Northwest Territories are provided with such information pertaining to the issuer as is required under the *Securities Act* of that province or by the securities regulatory authority of that province to be provided to the holders of securities of the issuer resident in that province, and within the same time periods as prescribed by the *Securities Act* of that province or the securities regulatory authority of that province; or

(c) (i) residents of the Northwest Territories do not hold more than 2% of the securities of a class

of securities and not more than 2% of the holders of that class of securities are resident in the Northwest Territories;

- (ii) the trade is executed through the facilities of a stock exchange;
- (iii) the trade is made in accordance with the rules of the stock exchange;
- (iv) the trade is made in accordance with all laws applicable in the jurisdiction in which the stock exchange is located; and
- (v) all disclosure material furnished to holders of securities in the jurisdiction where the trade is effected is furnished to security holders resident in the Northwest Territories.

3. A prospectus or statement of material facts need not be filed with the Registrar in respect of a trade which is a distribution where:

- (a) the purchaser is:
 - (i) a financial institution
 - (ii) a subsidiary of a financial institution where the financial institution owns beneficially all of the voting securities of that subsidiary;
 - (iii) the Government of Canada, the government of a province, the Government of the United Kingdom or the government of any foreign country or any political division of that country;
 - (iv) a municipal corporation or public board or commission in Canada; or
 - (v) a Crown corporation;

who purchases as principal;

(b) the trade is an isolated trade by or on behalf of an issuer in a security of its own issue for the issuer's account where the trade is not made:

- (i) in the course of continued and successive transactions of a like nature; and
- (ii) by a person or corporation whose usual business is trading in securities;

(c) the purchaser purchases as principal and the trade is in a security having an aggregate acquisition cost to the purchaser of not less than \$150,000 provided that:

- (i) where there is an advertisement in the printed or electronic media of general and regular circulation in respect of the securities to be traded,
 - (A) the advertisement shall specify clearly the minimum aggregate acquisition cost to a purchaser, and
 - (B) an offering memorandum is furnished to a prospective purchaser not less than 2 days prior to entering into an agreement of purchase and sale;
- (ii) each purchaser is given a contractual right of action, which right of action shall be described

in any offering memorandum that is required;

(iii) each purchaser completes an acknowledgement in either Form 2 or 3, as the case may be, which acknowledgement shall be retained by the issuer for a period of 6 years after the distribution and shall be made available to the Registrar on request; and

(iv) the vendor files a report with the Registrar in accordance with Form 1 within 10 days of the trade;

(d) the trade is:

(i) made to a lender, pledgee, mortgagee or other encumbrancee for the purpose of giving collateral for a *bona fide* debt; or

(ii) the transfer of beneficial ownership of the security to the lender, pledgee, mortgagee or other encumbrancee pursuant to realization on the collateral described in clause (i);

(e) the trade is made by an issuer:

(i) in a security of its own issue that is distributed by it to holders of its securities as a stock dividend or other distribution out of earnings or surplus;

(ii) in a security, whether of its own issue or not, that is distributed by it to holders of its securities as incidental to:

(A) a bona fide reorganization of that issuer;

(B) a winding up or dissolution of that issuer; or

(C) a distribution of its assets for the purpose of winding up its affairs;

(iii) in a security of its own issue transferred or issued through the exercise of a right, previously granted by the issuer, of:

(A) the holder to purchase, convert or exchange; or

(B) the issuer to require the holder to purchase, convert or exchange;

where no commission or other remuneration is paid or given to others with respect to the distribution except for reasonable remuneration paid for administrative or professional services;

(f) the trade is made by an issuer, in a right granted by the issuer to the holders of a class of its securities to purchase additional securities of its own issue and the issue of securities pursuant to the exercise of the right where:

(i) the grantees of the rights residing in the Northwest Territories according to their last addresses as shown in the issuer's books, are not more than 5 in number and hold between them not more than 1% of the securities granted; or

(ii) the issuer is a reporting issuer pursuant to the laws of a province and;

- (A) it is a corporation incorporated or continued, or a partnership or other unincorporated organization established, pursuant to the laws of that province or a corporation incorporated pursuant to the laws of Canada whose head office is in that province;
 - (B) not less than 20% in number of the grantees reside in that province, according to their last addresses as shown on the issuer's books, and the trades to them have been permitted by the *Securities Act* or securities regulatory authority of that province; and
 - (C) not more than 5% in number of the grantees reside in the Northwest Territories, according to their last addresses as shown on the issuer's books;
- (g) the trade is made in a security of a corporation that is exchanged by or for the account of the corporation with another corporation or the holders of the securities of that other corporation pursuant to an amalgamation, merger, reorganization or arrangement, where, pursuant to the requirements of the applicable corporate legislation:
- (i) an information circular, proxy statement or other similar disclosure document with respect to the amalgamation, merger, reorganization or arrangement is prepared and delivered to shareholders; and
 - (ii) shareholder approval of the amalgamation, merger, reorganization or arrangement is obtained;
- (h) a trade in a security of an issuer that is exchanged by or for the account of the issuer with the security holders of another issuer pursuant to a take-over bid or issuer bid made by that person or corporation, provided that:
- (i) a take-over bid circular or issuer bid circular, as the case may be, is filed with the Registrar;
 - (ii) the holders of the securities resident in the Northwest Territories, are provided with such information as is required under the *Securities Act* of Ontario, Alberta or British Columbia or by the securities commission of one of the aforementioned provinces to be provided to the holders of the securities resident in that province, and within the same time periods as prescribed by that *Securities Act* or that commission; and
 - (iii) a notice of any variation in the offer or any change in the information contained in the take-over bid circular or issuer bid circular is delivered to the Registrar within 5 days of such variation or change;
- (i) a trade in a security to a person or corporation pursuant to a take-over bid or issuer bid made by that person or corporation;
- (j) the trade is in a security of an issuer to the issuer pursuant to the purchase, redemption or acquisition of the security by the issuer;
- (k) the trade is made by an issuer in a security of its own issue as consideration for the purchase of a portion or all of the assets of any person or corporation where the fair value of the assets so purchased is not less than \$150,000, provided that the vendor files a report with the Registrar in accordance with Form 1 within 10 days of the trade;

(l) the trade is made by an issuer in a security of its own issue in consideration for mining or oil and gas properties or an interest in them provided that the vendor:

(i) enters into such escrow or pooling agreements as the Registrar considers necessary; and

(ii) files a report with the Registrar in accordance with Form 1 within 10 days of the trade;

(m) the trade is made in a security of an issuer previously issued by the issuer pursuant to the exemption in clause (l) where each of the parties to the trade is one of the purchasers from the issuer of such a security;

(n) the trade is made by an issuer in a security of its own issue:

(i) with an employee or an employee of an affiliate; or

(ii) to a trustee on behalf of an employee or an employee of an affiliate, including the trade from the trustee to that employee under the terms of the trust;

where the employee is not induced to purchase by expectation of employment or continued employment;

(o) the trade is made by an issuer in a security of its own issue where:

(i) the trade is reasonably necessary to facilitate the incorporation or organization of the issuer; and

(ii) the security is traded for a nominal consideration to not more than five incorporators or organizers, unless the statute under which the issuer is incorporated or organized requires the trade to be for a greater consideration or to a larger number of incorporators or organizers, in which case the security may be traded for the greater consideration or to that larger number of incorporators or organizers;

(p) the trade is made in a security of an issuer to a promoter of the issuer, where that trade is made by the issuer, another promoter of the issuer or an incorporator or organizer of the issuer;

(q) the trade is made in a security of an issuer where each of the parties to the trade is a person who or corporation that is, as regards that issuer, a control person;

(r) the trade is made by an issuer in a security of its own issue where:

(i) solicitations are made to not more than 50 prospective purchasers in all jurisdictions including the Northwest Territories resulting in sales to not more than twenty-five purchasers;

(ii) an offering memorandum is furnished to a prospective purchaser not less than 2 days prior to entering into an agreement of purchase and sale;

(iii) each purchaser is given a contractual right of action that is described in the offering memorandum;

(iv) all of the purchases are completed within a period of six months of the first purchase except that subsequent sales to the same purchasers may be carried out if made in compliance with

written agreements entered into during that six-month period;

(v) each purchaser is purchasing as principal and is:

(A) an individual who has

- (i) a net worth, or a net worth jointly with his or her spouse or spousal equivalent at the date of the agreement of purchase and sale of the securities, of not less than \$250,000, exclusive of home, car and furnishings,
- (ii) an annual income for each of the past two years, or annual income jointly with his or her spouse or spousal equivalent, of greater than \$75,000 before taxes, and an annual income, or annual income jointly with his or her spouse or spousal equivalent, in the current year expected to be greater than \$75,000 before taxes, and
- (iii) the necessary knowledge to assess the merits and risks of an investment in the security as a result of previous experience based on investments in like securities and, as such, does not require the information and protection which would otherwise be provided under the Act;

(B) an individual who has

- (i) a net worth, or a net worth jointly with his or her spouse or spousal equivalent at the date of the agreement of purchase and sale of the securities, of not less than \$50,000, exclusive of home, car and furnishings,
- (ii) an annual income for each of the past two years, or annual income jointly with his or her spouse or spousal equivalent, of greater than \$75,000 before taxes, and an annual income, or annual income jointly with his or her spouse or spousal equivalent, in the current year expected to be greater than \$75,000 before taxes, and
- (iii) the necessary knowledge to assess the merits and risks of an investment in the security as a result of previous experience based on investments in like securities and, as such, does not require the information and protection which would otherwise be provided under the Act;

(C) a purchaser, other than an individual, that has

- (i) net assets of not less than \$250,000,
- (ii) an annual income for each of the past two years of greater than \$75,000 before taxes, and an annual income in the current year expected to be greater than \$75,000 before taxes, and
- (iii) the necessary knowledge to assess the merits and risks of an investment in the security as a result of previous experience based on investments in like securities and, as such, does not require the information and protection which would otherwise be provided under the Act;

(D) a purchaser, other than an individual, that has

- (i) net assets of not less than \$50,000,
- (ii) an annual income for each of the past two years of greater than \$75,000 before taxes, and an annual income in the current year expected to be greater than \$75,000 before taxes, and
- (iii) the necessary knowledge to assess the merits and risks of an investment in the security as a result of previous experience based on investments in like securities and, as such, does not require the information and protection which would

otherwise be provided under the Act; or

(E) by virtue of consultation with or advice from a registered broker or salesperson who is not a promoter of the issuer and whose registration permits them to provide advice in respect of such a security, is able to evaluate the offer;

(vi) a purchaser to whom only subclause (iii)(B) or (D) applies may not purchase securities having an aggregate acquisition cost of greater than 50% of the net worth or net assets of the purchaser, as described in the applicable subclause;

(vii) the offer and sale of the security is not accompanied by an advertisement;

(viii) no selling or promotional expenses have been paid or incurred in connection with the offer and sale except for reasonable remuneration for administration or professional services;

(ix) no other securities of the issuer's own issue are being issued concurrently in reliance on the exemption in this paragraph and paragraph (s);

(x) each purchaser resident in the Northwest Territories completes an acknowledgement in either Form 2 or 3, as the case may be, which acknowledgement shall be retained by the issuer for a period of 6 years after the distribution and shall be made available to the Registrar on request; and

(xi) the vendor files a report with the Registrar in accordance with Form 1 within 10 days of the trade;

(s) the trade is made by an issuer with:

(i) a senior officer or director of the issuer or an affiliate of the issuer;

(ii) a spouse, spousal equivalent, parent, brother, sister or child of a senior officer or director of the issuer or an affiliate of the issuer;

(iii) a corporation all of whose voting securities are beneficially owned by one or more individuals referred to in clause (i) or (ii); or

(iv) close friends or close business associates of a promoter of the issuer, or a corporation all of whose voting securities are beneficially owned by a single close friend or single close business associate of a promoter of the issuer if:

(A) the trade is with not more than 25 purchasers in all jurisdictions including the Northwest Territories;

(B) the offer and sale of the security is not accompanied by an advertisement;

(C) no promoter of the issuer, other than a registered broker, has acted within the previous 12 months as a promoter of any other issuer which has traded in securities of its own issue pursuant to the exemption in this clause or a similar exemption under any other order of the Registrar; and

(D) no selling or promotional expenses have been paid or incurred in connection with the offer and sale;

provided that the vendor files a report with the Registrar in accordance with Form 1 within 10 days of the trade;

(t) the trade is made in a security of an issuer previously issued by the issuer pursuant to the exemption in paragraph (r) or (s) where each of the parties to the trade is one of the purchasers from the issuer of such a security and provided that the vendor files a report with the Registrar in accordance with Form 1 within 10 days of the trade;

(u) the trade is made from one broker to another broker where the broker making the purchase is purchasing as principal;

(v) the trade is made between a person or corporation and an underwriter acting as purchaser or between or among underwriters;

(w) the trade is made by a person or corporation to a broker in consideration of services performed by that broker in connection with a distribution;

(x) the trade is made by an issuer in a security of the issuer's own issue of a class that is publicly traded or redeemable at the option of the holder pursuant to a plan made available by the issuer to all holders of a class of securities of the issuer, the address of whom as shown in the books of the issuer is in Canada, where the plan:

(i) permits the holder to elect to receive stock dividends in lieu of cash dividends or to direct that dividends or interest paid or payable be applied to purchase of securities from the issuer;

(ii) may include an option of the holder to make cash payments to purchase additional securities of the issuer; and

(iii) in the case of a plan that includes an option described in clause (ii), the aggregate number of securities of any class issued pursuant to the cash payment component of that plan in any financial year of the issuer does not exceed 2% of the number of outstanding securities of that class as at the commencement of that financial year;

(y) the trade is made by a mutual fund to a holder of a share or unit in the fund pursuant to a plan made available to all holders of a share or unit in the fund, the address of whom as shown in the books of the issuer is in Canada, where:

(i) the plan permits or requires that dividends or distributions or income or capital gains attributable to the shares or units held by a holder be reinvested in additional shares or units of the fund of the same class or having the same attributes as the shares or units with respect to which the dividends or distributions of income or capital gains are attributable; and

(ii) no sales charge is payable with respect to the trade;

(z) the trade is made in a share or unit of a mutual fund to a purchaser, other than the initial trade in a share or unit of the mutual fund to that purchaser, where:

- (i) the initial trade in the shares or units of the mutual funds to that purchaser was made in reliance on the exemption in paragraph (c); and
 - (ii) either the net asset value or the aggregate acquisition cost of the shares or units in the mutual funds held by the purchaser as at the date of the trade is not less than \$150,000;
- (aa) the trade is made in a bond, debenture or other evidence of indebtedness:
- (i) of or guaranteed by the Government of Canada, the government of a province, the Government of the United Kingdom or the government of any foreign country or any political division of that country;
 - (ii) of any municipal corporation in Canada, including debentures issued for public, separate, secondary or vocational school purposes, guaranteed by any municipal corporation in Canada or secured by or payable out of rates or taxes levied pursuant to the law of a province on property in that province and collectable by or through the municipality in which the property is situated;
 - (iii) of or guaranteed by a financial institution;
 - (iv) of or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank of Reconstruction and Development approved by the *Bretton Woods Agreement Act* (Canada) where the bonds, debentures or evidence of indebtedness are payable in the currency of Canada or the United States of America; or
 - (v) of or guaranteed by the Asian Development Bank or the Inter-American Development Bank, where the bonds, debentures or evidences of indebtedness are payable in the currency of Canada or the United States of America;
- provided that the bonds, debentures or other evidences of indebtedness are not subordinate in right of payment to deposits held by the issuer or guarantor of such bonds, debentures or other evidences of indebtedness.
- (bb) certificates or receipts are issued by a trust corporation licensed as such under an Act of the Parliament of Canada, or the laws of a province, for money received for guaranteed investment;
 - (cc) the securities are issued by a private mutual fund;
 - (dd) negotiable promissory notes or commercial paper maturing not more than one year from the date of issue, where:
 - (i) each such note or commercial paper traded to an individual has a denomination or principal amount of not less than \$50,000; and
 - (ii) that note or commercial paper is not convertible or exchangeable into or accompanied by a right to purchase another security other than a security described in this clause;
 - (ee) mortgages or other encumbrances secured by real or personal property, other than mortgages or other encumbrances contained in or secured by a bond, debenture or similar obligation or in a trust deed or other instrument to secure bonds or debentures or similar obligations, provided that the amount paid for the mortgage or other encumbrance together with the amount of indebtedness under any other

mortgage or encumbrance secured by the property ranking equally or superior to the mortgage or other encumbrance being purchased exceeds 85% of the value of the property;

(ff) securities evidencing indebtedness due under any conditional sales contract or other title retention contract providing for the acquisition of personal property where the security is not offered for sale to an individual;

(gg) securities issued by an issuer organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for profit where no part of the net earnings of such issuer enure to the benefit of any security holder and no commission or other remuneration is paid in connection with the sale of the securities;

(hh) securities issued by co-operative associations pursuant to the *Co-operative Associations Act*;

(ii) securities of a private corporation where they are not offered for sale to the public;

(jj) a share or unit of a mutual fund that:

(i) is administered by a trust corporation;

(ii) has no promoter other than one or more of such trust corporations;

(iii) has no manager other than one or more of such trust corporations or a person or corporation who is a portfolio manager; and

(iv) consists of a fund maintained by a trust corporation in which money belonging to various estates and trust in its care are commingled for the purpose of facilitating investment;

(kk) variable insurance contracts issued by a company licensed pursuant to the *Insurance Act* where the variable insurance contract is:

(i) a contract of group insurance;

(ii) a whole life insurance contract providing for the payment at maturity of an amount not less than three quarters of the premium paid up to the age of 75 for a benefit payable at maturity;

(iii) an arrangement for the investment of policy dividends and policy proceeds in a separate and distinct fund to which contributions are made only from policy dividends and policy proceeds; or

(iv) a variable life annuity;

(ll) the trade is made by a financial institution as principal or agent in shares or units of mutual funds if the share or units are sold to a pension plan, deferred profit sharing plan, retirement savings plan or other similar capital accumulation plan maintained by the sponsor of such plan for its employees and the decision to purchase the shares or units is not made by or at the direction of the employees;

(mm) the trade is made

(i) by an executor, administrator, guardian or committee;

(ii) by an authorized trustee or assignee, an interim or official receiver or a custodian pursuant

to the *Bankruptcy and Insolvency Act* (Canada);

(iii) by a receiver appointed by a justice of the Supreme Court;

(iv) by a liquidator pursuant to the *Winding-up Act* (Canada), the *Canada Business Corporations Act* or pursuant to any Act of the Territories providing for the winding-up of the affairs of a person or corporation;

(v) at a judicial sale; or

(vi) by the Sheriff as defined in the *Judicature Act* and acting in that capacity.

4. (1) Subject to subsection (2), the first trade in a security acquired by the vendor pursuant to a trade that was made in reliance on the exemption in:

(a) paragraphs (3)(a), (b), (c), (k), (l), (m), (r), (s), (t), (u), (w) or (z), or

(b) clause (3)(e)(iii), where the right or obligation to purchase, convert or exchange the security, as the case may be, was acquired by the vendor pursuant to a distribution exempted from the requirement to file a prospectus or statement of material facts by an exemption described in paragraph (a)

is a distribution.

(2) A first trade that is a distribution by virtue of subsection (1) is not a distribution provided that:

(a) the issuer of the security is a reporting issuer in a province;

(b) if the vendor is an insider of the issuer, the vendor has reasonable grounds to believe that the issuer is not in default of any requirement of this Act;

(c) the securities:

(i) are listed and posted for trading on the Vancouver Stock Exchange, The Alberta Stock Exchange, The Toronto Stock Exchange or The Montreal Exchange and comply with the requirements of paragraphs 86(m) or (n) of the *Canadian and British Insurance Companies Act* (Canada), as they read on May 31, 1992, and have been held at least six months from the later of the date:

(A) of the initial exempt trade;

(B) of the issue of the right or obligation to purchase, convert, exchange or receive the security;

(C) the issuer became a reporting issuer;

(ii) are bonds, debentures or other evidences of indebtedness issued or guaranteed by an issuer or are preferred shares of an issuer and comply with the requirements of paragraphs 86(k) or (m) of the *Canadian and British Insurance Companies Act* (Canada), as they read on May 31, 1992, and have been held at least six months from the later of the date:

(A) of the initial exempt trade;

(B) of the issue of the right or obligation to purchase, convert, exchange or receive the security; and

(C) the issuer became a reporting issuer;

(iii) are listed and posted for trading on the Vancouver Stock Exchange, The Alberta Stock Exchange, The Toronto Stock Exchange or The Montreal Exchange, or are bonds, debentures or other evidences of indebtedness issued or guaranteed by the reporting issuer whose securities are so listed, and have been held at least one year from the later of the date:

(A) of the initial exempt trade;

(B) of the issue of the right or obligation to purchase, convert, exchange or receive the security; and

(C) the issuer became a reporting issuer; or

(iv) have been held at least 18 months from the later of the date of:

(A) of the initial exempt trade;

(B) of the issue of the right or obligation to purchase, convert, exchange or receive the security; and

(C) the issuer became a reporting issuer;

(d) the first trade is not a secondary distribution; and

(e) no unusual effort is made to prepare the market or create a demand for those securities and no extraordinary commission or consideration is paid with respect to that trade.

(3) The first trade in a security acquired by the vendor pursuant to a trade that was made in reliance on the exemption in clause (3)(e)(i) or (ii) or paragraph (3)(f), (g), (h), (i), (n), (x), (y) or (mm), and the first trade in previously issued securities of an issuer that has ceased to be a private corporation is a distribution unless:

(a) the issuer of the security is a reporting issuer in a province and has been a reporting issuer for at least 12 months;

(b) if the vendor is an insider of the issuer, the person or corporation has reasonable grounds to believe that the issuer is not in default of any requirement of the *Securities Act* or the *Securities Act* in any province in which the issuer is a reporting issuer;

(c) the first trade is not a secondary distribution; and

(d) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission or consideration is paid in respect of the trade.

5. A prospectus or statement of material facts need not be filed with the Registrar in respect of a trade

which is a distribution by virtue of subsection 4(3) where

- (a) the issuer of the security is not incorporated, organized or continued pursuant to the laws of the Northwest Territories; and
- (b)
 - (i) at the time that the security was acquired, residents of the Northwest Territories did not hold more than 2% of the securities of that class of securities and not more than 2% of the holders of that class of securities were resident in the Northwest Territories;
 - (ii) the trade is executed through the facilities of a stock exchange;
 - (iii) the trade is made in accordance with the rules of the stock exchange;
 - (iv) the trade is made in accordance with all laws applicable in the jurisdiction in which the stock exchange is located; and
 - (v) all disclosure material furnished to holders of securities in the jurisdiction where the trade is effected is furnished to security holders resident in the Northwest Territories.

6. For the purpose of computing the hold period described in subsection 4(2) with respect to a security mentioned in clause (3)(e)(iii), the time during which the security was held by the vendor prior to the exercise of the right or obligation with respect to that security, that was transferred or issued through the exercise of the right, may be included in determining the time during which the security must be held by that vendor.

7. Where a person or corporation acquires securities that are subject to subsection 4(2) or (3), by way of gift or otherwise without valuable consideration, the first trade of those securities by that person or corporation is subject to the provisions of subsection 4(2) or (3), as the case may be, as if the trade were being made by the person from whom or corporation from which the securities were acquired.

8. (a) A trade in a security by a person who or corporation that has acquired the security in the capacity of lender, pledgee, mortgagee or other encumbrancee by way of realization on collateral for a debt is subject to the provisions of subsection 4(2) and (3) that would be applicable to a trade in that security by the debtor other transferor as of the date of the trade.

(b) For the purpose of computing a hold period with respect to a security held by a lender, pledgee, mortgagee or other encumbrancee referred to in subsection (a), the lender, pledgee, mortgagee or other encumbrancer is deemed to have acquired the security as of the date of acquisition by the debtor or other transferor.

9. The exemptions in section 3 are not available with respect to a distribution of a security by an issuer that is in default of any requirement of this Act, the regulations or a decision of the Registrar.

10. A person who or corporation that is required to send or deliver an offering memorandum to a purchaser pursuant to an obligation to do so in an exemption listed in section 3 shall deliver one copy of the offering memorandum to the Registrar within 10 days of the distribution.

11. A report in Form 1 is not required pursuant to an exemption listed in section 3 where a financial institution acquires from a customer:

- (a) an evidence of indebtedness of the customer; or

(b) an equity investment in the customer acquired concurrently with an evidence of indebtedness.

DATED at Yellowknife in the Northwest Territories this 16th day of May, 1997.

Gary MacDougall

Gary I. MacDougall,
Registrar of Securities

FORM 1

REPORT OF EXEMPT TRADES

NOTE: This report is not required if a bank to which the *Bank Act* (Canada) applies or a trust company acquires from a customer an evidence of indebtedness of the customer or any equity investment in the customer acquired concurrently with evidence of indebtedness.

- 1. Full name and address of the Vendor.
- 2. Name and address of the issuer of the security traded and description of the security.
- 3. Date of trade(s).

| | | | |
|---|---|-------------------------|--------------------------------|
| 4. Full Name and Address of Purchaser(s) _____ | Amount or Number of Securities Purchased _____ | Purchase Price _____ | Exemption Relied Upon _____ |
|---|---|-------------------------|--------------------------------|

5. State the name and address of any person acting as agent in connection with the trade(s) and the compensation paid or to be paid to such agent, including discounts, commissions or other fees or payments of a similar nature.

6. State the total proceeds derived in the Northwest Territories by the issuer or selling security holder from the distribution.

CERTIFICATE OF VENDOR OR AGENT OF VENDOR

The undersigned hereby certifies that the statements made in this report are true and correct.

DATED at _____

(name of vendor or agent)

this ____ day of _____, 20____.

(signature)

(official capacity)

(name of individual whose signature appears)

1. In answer to question 5, give the name of the person or company who has been or will be paid remuneration related to the trade(s). It is not necessary to include payments for services incidental to the trade such as clerical, printing, lead or accounting
2. If the space provided for any answer is insufficient, additional sheets may be used and must be cross referenced to the relevant item and properly identified and signed by the person whose signature appears on the report.
3. Please file this report in duplicate with the filing fee of \$25.00. Cheques are payable to the Government of the Northwest Territories.

FORM 2

ACKNOWLEDGEMENT OF INDIVIDUAL PURCHASER

1. I have agreed to purchase _____ [number and type of security] (the "Securities") from _____ (the "Issuer") for the total subscription amount of \$_____.
2. I am purchasing the Securities as principal and, on closing of the agreement of purchase and sale, I will be the beneficial owner of the Securities;
3. I [circle one] *have/have not* received an Offering Memorandum describing the Issuer and the Securities.
4. I acknowledge that:
 - (a) neither the Registrar of Securities for the Northwest Territories nor any securities commission or similar regulatory authority has reviewed or passed upon the merits of the Securities,
 - (b) there is no government or other insurance covering the Securities,
 - (c) there are risks associated with the purchase of the Securities and I may lose all of my investment,
 - (d) there are restrictions on my ability to resell the Securities and it is my responsibility to find out what those restrictions are and to comply with them before selling the Securities, and
 - (e) I am purchasing the Securities pursuant to an exemption from the prospectus requirements of the *Securities Act* of the Northwest Territories and as a consequence:
 - (i) I will not have the civil remedies provided for under the *Securities Act*,
 - (ii) I may not receive information that would otherwise be required to be provided to me, and
 - (iii) the Issuer is relieved from certain obligations that would otherwise apply under securities legislation.

[PLEASE NOTE: Only one of paragraphs 5(a), (b), (c) or (d) should be initialled]

TO BE COMPLETED BY INDIVIDUAL INVESTING \$150,000 OR MORE

5. (a) I am purchasing Securities that have an aggregate acquisition cost to me of \$150,000 or more;

Initial

TO BE COMPLETED BY INDIVIDUAL WHO HAS RECEIVED INVESTMENT ADVICE

5. (b) I have obtained independent advice with respect to the Securities being offered, my rights of rescission and withdrawal and the merits and risks of an investment in the Securities, including my ability to discharge any continuing commitments associated with the investment and to bear the financial impact of the loss of such an investment, from _____, who has advised me that they are an individual registered to trade or advise in the Securities under the *Securities Act* of the Northwest Territories, and that the purchase of the Securities is a suitable investment for me.

Initial

**TO BE COMPLETED BY INDIVIDUAL WITH A NET WORTH EXCEEDING \$250,000,
AN ANNUAL INCOME EXCEEDING \$75,000 AND INVESTMENT EXPERIENCE**

5. (c) (i) my net worth, or my net worth jointly with my spouse at the date of the agreement of purchase and sale of the Securities, is not less than \$250,000, exclusive of home, car and furnishings,
- (ii) my annual income for each of the past two years, or annual income jointly with my spouse, has been greater than \$75,000 before taxes, and my annual income, or annual income jointly with my spouse, in the current year is expected to be greater than \$75,000 before taxes, and
- (iii) I have the necessary knowledge to assess the merits and risks of an investment in the Securities as a result of previous experience based on investments in like securities and, as such, do not require the information and protection which would otherwise be provided under the Act.

Initial

**TO BE COMPLETED BY INDIVIDUAL WITH A NET WORTH EXCEEDING \$50,000,
AN ANNUAL INCOME EXCEEDING \$75,000 AND INVESTMENT EXPERIENCE**

5. (d) (i) my net worth, or my net worth jointly with my spouse at the date of the agreement of purchase and sale of the Securities, is not less than \$50,000, exclusive of home, car and furnishings,
- (ii) my annual income for each of the past two years, or annual income jointly with my spouse, has been greater than \$75,000 before taxes, and my annual income, or annual income jointly with my spouse, in the current year is expected to be greater than \$75,000 before taxes, and
- (iii) I have the necessary knowledge to assess the merits and risks of an investment in the Securities as a result of previous experience based on investments in like securities and, as such, do not require the information and protection which would otherwise be provided under the Act.

Initial

6. **The statements made in this report are true.**

(signature of Purchaser)

(name of Purchaser)

(address of Purchaser)

FORM 3

ACKNOWLEDGEMENT OF PURCHASER THAT IS NOT AN INDIVIDUAL

1. _____ (the "Purchaser") has agreed to purchase _____ [number and type of security] (the "Securities") from (the "Issuer") for the total subscription amount of \$ _____.
2. The Purchaser is purchasing the Securities as principal and, on closing of the agreement of purchase and sale, will be the beneficial owner of the Securities;
3. The Purchaser [circle one] *has/has not* received an Offering Memorandum describing the Issuer and the Securities.
4. The Purchaser acknowledges that:
 - (a) neither the Registrar of Securities for the Northwest Territories nor any securities commission or similar regulatory authority has reviewed or passed upon the merits of the Securities,
 - (b) there is no government or other insurance covering the Securities,
 - (c) there are risks associated with the purchase of the Securities and the Purchaser may lose all of its investment,
 - (d) there are restrictions on the Purchaser's ability to resell the Securities and it is the Purchaser's responsibility to find out what those restrictions are and to comply with them before selling the Securities, and
 - (e) the Purchaser is purchasing the Securities pursuant to an exemption from the prospectus requirements of the *Securities Act* of the Northwest Territories and as a consequence:
 - (i) the Purchaser will not have the civil remedies provided for under the *Securities Act*,
 - (ii) the Purchaser may not receive information that would otherwise be required to be provided to the Purchaser, and
 - (iii) the Issuer is relieved from certain obligations that would otherwise apply under securities legislation.

[PLEASE NOTE: Only one of paragraphs 5(a), (b), (c) or (d) should be initialled]

TO BE COMPLETED BY A PURCHASER INVESTING \$150,000 OR MORE

5. (a) The Purchaser is purchasing Securities that have an aggregate acquisition cost to the Purchaser of \$150,000 or more;

Initial

TO BE COMPLETED BY A PURCHASER WHO HAS RECEIVED INVESTMENT ADVICE

5. (b) The Purchaser has obtained independent advice with respect to the Securities being offered, the Purchaser's rights of rescission and withdrawal and the merits and risks of an investment in the Securities, including the Purchaser's ability to discharge any continuing commitments associated with the investment and to bear the financial impact of the loss of such an investment, from _____, who has advised the Purchaser that they are an individual registered to trade or advise in the Securities under the *Securities Act* of the Northwest Territories, and that the purchase of the Securities is a suitable investment for the Purchaser.

Initial

**TO BE COMPLETED BY A PURCHASER WITH NET ASSETS EXCEEDING \$250,000,
ANNUAL INCOME EXCEEDING \$75,000 AND INVESTMENT EXPERIENCE**

5. (c) (i) the Purchaser has net assets of not less than \$250,000,
- (ii) the Purchaser's annual income for each of the past two years has been, and the Purchaser's annual income in the current year is expected to be, greater than \$75,000 before taxes, and
- (iii) the Purchaser has the necessary knowledge to assess the merits and risks of an investment in the Securities as a result of previous experience based on investments in like securities and, as such, does not require the information and protection which would otherwise be provided under the Act.

Initial

**TO BE COMPLETED BY A PURCHASER WITH NET ASSETS EXCEEDING \$50,000,
ANNUAL INCOME EXCEEDING \$75,000 AND INVESTMENT EXPERIENCE**

5. (d) (i) the Purchaser has net assets of not less than \$50,000,
- (ii) the Purchaser's annual income for each of the past two years has been, and the Purchaser's annual income in the current year is expected to be, greater than \$75,000 before taxes, and
- (iii) the Purchaser has the necessary knowledge to assess the merits and risks of an investment in the Securities as a result of previous experience based on investments in like securities and, as such, does not require the information and protection which would otherwise be provided under the Act.

Initial

6. **The statements made in this report are true.**

(signature of Authorized Signatory of Purchaser)

(name of Purchaser)

(address of Purchaser)