

**ALBERTA SECURITIES COMMISSION
BLANKET ORDER 45-509 (AB) - SPECIAL WARRANTS**

Order Under Sections 144(2) and 213(b) of the *Securities Act* (Alberta)

PART 1 DEFINITIONS AND INTERPRETATION

1.1 In this Blanket Order:

- (a) “Act” means the *Securities Act* (Alberta) R.S.A. 2000, c.S-4;
- (b) “IDA” means the Investment Dealers Association;
- (c) “MI 45-102” means Multilateral Instrument 45-102 *Resale of Securities*;
- (d) “Special Warrant Issuer” means the issuer of the Special Warrants;
- (e) “Special Warrants” means securities that are issued for cash consideration pursuant to an exemption from the prospectus requirement in Alberta securities laws which entitle the holder to acquire the Underlying Securities for no additional consideration;
- (f) “Underlying Securities” means the securities obtainable on the exercise of the Special Warrants;
- (g) “Underlying Security Issuer” means the issuer of the Underlying Securities;

1.2 Unless otherwise defined in this Blanket Order, terms used in this Blanket Order that are defined or interpreted in the Act or National Instrument 14-101 *Definitions* have that meaning or interpretation in this Blanket Order.

PART 2 BACKGROUND TO ORDER

2.1 On February 11, 1999, the Commission issued Blanket Order 11/02/99 (the “Special Warrant Order”) that provided an exemption from the prospectus requirements for the distribution of Special Warrants on certain conditions.

2.2 On December 15, 2000, the Commission extended the expiration date of the Special Warrants Order from December 31, 2000 to December 31, 2001.

2.3 The Special Warrants Order expired on December 31, 2001.

2.4 The IDA has made an application to the Commission to have a new blanket order granted on substantially the same terms as the Special Warrants Order for a one year period because:

- (a) Special Warrants are used by both issuers and investment dealers in reducing the period of "market risk" and transaction completion time associated with a prospectus offering;
- (b) in the absence of an offering memorandum, the exemptions from the prospectus requirements, generally, restrict the market for Special Warrants to financial institutions, exempt purchasers, accredited investors and investors who can purchase securities having an aggregate acquisition cost of not less than \$97,000; and
- (c) this blanket order would allow the private placement of Special Warrants to a broader market while still maintaining appropriate safeguards.

2.5 The Commission is satisfied that to do so would not be prejudicial to the public interest.

PART 3 PROSPECTUS EXEMPTION

3.1 Section 110 of the Act does not apply to a distribution of Special Warrants by a Special Warrants Issuer if:

- (a) the terms of the Special Warrants include the right of the purchaser to require the Special Warrants Issuer to return at least the full amount of the consideration paid by the purchaser for the Special Warrants in the event that the Underlying Security Issuer fails to obtain:
 - (i) within 30 days of the distribution of the Special Warrants, a receipt from the Executive Director for a preliminary prospectus; and
 - (ii) within 120 days of the distribution of the Special Warrants, a receipt from the Executive Director for a prospectus;

with respect to the distribution of the Underlying Securities.

- (b) the final prospectus for the distribution of the Underlying Securities contains a contractual right of rescission in the event of:
 - (i) a misrepresentation in the information contained in the latest financial statements of the Underlying Security Issuer filed with the Commission, or any written information distributed by the Special Warrant Issuer or the Underlying Security Issuer in support of the sale of Special Warrants; or
 - (ii) a misrepresentation in the prospectus;

which entitles the purchaser to rescind both the purchaser's exercise of its Special Warrants, and the acquisition of the Special Warrants, thereby entitling the purchaser to the return of the full amount of the consideration paid for the Special Warrants;

- (c) the purchaser purchases as principal and the trade is in a security which has an aggregate acquisition cost to the purchaser of not less than \$25,000;
- (d) the purchaser acknowledges in writing that:
 - (i) the purchaser knows that the purchaser is purchasing the Special Warrants pursuant to an exemption from the prospectus requirements in the Act and, as a consequence,
 - (A) the purchaser is restricted from using most of the civil remedies available under Alberta securities laws,
 - (B) the purchaser may not receive information that would otherwise be required to be provided to the purchaser under Alberta securities laws, and
 - (C) the issuer is relieved from certain obligations that would otherwise apply under Alberta securities laws,and
 - (ii) the purchaser has the investment acumen to assess the offering as a result of
 - (A) the purchaser's net worth and previous business or investment experience, or
 - (B) advice that the purchaser received on this investment that was
 - (I) independent advice on the offering obtained from a registered adviser or an adviser exempted from registration under section 85 of the Act, and
 - (II) not obtained from a promoter of the Special Warrant Issuer or of the Underlying Security Issuer;
- (e) the Underlying Security Issuer has been a reporting issuer in Alberta for not less than two years prior to the issue of the Special Warrants;
- (f) the Underlying Securities, or securities into which the Underlying Securities are convertible, have been listed on one of The Toronto Stock Exchange Inc., the TSX Venture Exchange or the Bourse de Montréal (or any predecessor or successor to any of these entities) for not less than two years prior to the distribution of the Special Warrants;

- (g) the Underlying Security Issuer had a minimum of \$2,500,000 of revenue from continuing operations for the twelve month period ending at the end of the last fiscal quarter of the Underlying Security Issuer prior to the distribution of the Special Warrants;
- (h) the proceeds from the distribution of the Special Warrants are held in trust by a depository who is a registrant or a financial institution, as such is defined in subsection 1(v) of the Act, until such time as the right referred to in paragraph 3.1(a) of this Blanket Order has expired;
- (i) the trade of Special Warrants is effected through an investment dealer registered under the Act; and
- (j) the Special Warrants Issuer and the Underlying Security Issuer are not in default of any requirement of Alberta securities laws.

3.2 If the Special Warrants Issuer is not the same as the Underlying Security Issuer, the trade by the Special Warrants Issuer of the Underlying Securities on exercise of the Special Warrants is exempt from section 110 of the Act if no unusual effort is made to prepare the market or to create a demand for the Underlying Securities and no extraordinary commission or consideration is paid or given in respect of the distribution of the Underlying Securities.

PART 4 REPORT ON TRADE

4.1 The Special Warrants Issuer must file a Form 20 not later than 10 days after the distribution of Special Warrants to a purchaser in reliance on this Blanket Order.

PART 5 DEEMED DISTRIBUTION

5.1 The first trade of Special Warrants acquired under this Blanket Order is subject to section 2.5 of MI 45-102.

5.2 The first trade of Underlying Securities issued prior to a receipt being obtained from the Executive Director for a prospectus is subject to section 2.5 of MI 45-102.

5.3 With regard to the first trade of securities referred to in section 5.1 or 5.2 of this Blanket Order, each reference to “the issuer” or “the issuer of the securities” in section 2.5 of MI 45-102 means the Underlying Security Issuer.

5.4 For purposes of section 5.2 of this Blanket Order, each reference to the “distribution date” in section 2.5 of MI 45-102 means the date of distribution of the Special Warrants.

