

**NATIONAL POLICY 46-201
ESCROW FOR INITIAL PUBLIC OFFERINGS**

TABLE OF CONTENTS

PART	TITLE	PAGE
Part I	Purpose and Interpretation	1
	1.1 What is the purpose of escrow?	1
	1.2 Interpretation	1
	1.3 Will a Canadian exchange impose additional escrow terms?	1
Part II	Application of the Policy	2
	2.1 When does this Policy apply?	2
	2.2 What are the exceptions?	2
	2.3 How does this Policy apply to special warrant prospectuses?	2
	2.4 Can securities regulators impose additional or different terms?	3
Part III	Escrow Classifications	3
	3.1 Escrow classifications	3
	3.2 Exempt issuers	3
	3.3 Established and emerging issuers	3
	3.4 When is an issuer classified for escrow purposes?	4
	3.5 Whose securities are subject to escrow?	4
	3.6 Are any principals exempt from escrow requirements?	5
	3.7 What types of securities are subject to escrow?	5
	3.8 What is a permitted secondary offering?	5
	3.9 Is there a standard form of escrow agreement?	6
	3.10 Who may be an escrow agent?	6
Part IV	Release of Escrow Securities from Escrow	6
	4.1 When are escrow securities released from escrow?	6
	4.2 Release schedule for established issuers	6
	4.3 Release schedule for emerging issuers	7
	4.4 What happens if an emerging issuer becomes an established issuer after its IPO?	8
	4.5 Release of escrow securities on death of holder	9
	4.6 Release of escrow securities	9
Part V	Business Combinations	9
	5.1 When does this Part apply?	9
	5.2 Can a holder of escrow securities tender them in a business combination?	9
	5.3 If the holder receives securities of another issuer in exchange for the holder's escrow securities, will the new securities be subject to escrow?	9
	5.4 If the new securities are subject to escrow, when will they be released?	10

Part VI	Dealing with Escrow Securities	10
	6.1 Can a holder of escrow securities vote and receive distributions on the escrow securities?	10
	6.2 Restrictions on dealing with escrow securities	10
	6.3 When can a holder of escrow securities transfer them within escrow?	10
	6.4 Can a holder pledge, mortgage or charge escrow securities as collateral for a loan?	11
	6.5 Can a holder exchange or convert convertible escrow securities?	11
Part VII	General Provisions	11
	7.1 Amendments to escrow agreement require regulatory approval	11
	7.2 Will mutual reliance principles apply to escrow filings?	11
	7.3 What happens if an issuer does not complete its IPO?	12
	7.4 Do local resale restrictions still apply to escrow securities after they are released from escrow?	12
Part VIII	Amendment of Release Terms in Escrow Agreements Made Prior to this Policy	12
	8.1 Can the release terms of escrow agreements made prior to this Policy be amended?	12
Part IX	Effective Date	13
Appendix		

NATIONAL POLICY 46-201

ESCROW FOR INITIAL PUBLIC OFFERINGS

Securities regulators usually require an issuer making an initial public offering to enter into an escrow agreement with its principals and an escrow agent. We may also require an escrow agreement in connection with a prospectus when public investors are asked to finance a significant change of business and escrow has not been previously imposed on the issuer's principals in connection with that business.

Under an escrow agreement principals place their securities in escrow with an escrow agent. Principals are restricted from selling or dealing in other ways with the escrow securities until they are released from escrow according to the escrow agreement.

This Policy describes the circumstances where securities regulators consider an escrow agreement necessary or desirable and the terms of escrow we consider appropriate. Until recently, different provinces had different escrow policies. This Policy describes uniform terms for escrow agreements that will be used throughout Canada.

Part I Purpose and Interpretation

1.1 What is the purpose of escrow?

- (1) A public investor who buys securities in an initial public offering or an offering to fund a significant change of business relies on the issuer's management and principal securityholders to carry out the plans described in the issuer's prospectus. This is particularly true for issuers with a limited history of operations.
- (2) An escrow agreement ties the issuer's management and its principal securityholders to the issuer by restricting their ability to sell their securities for a period of time following the issuer's offering. This gives them an incentive to devote their time and attention to the issuer's business while they are securityholders.

1.2 Interpretation

- (1) When we refer to securities that a person or company "holds", we mean that the person or company has direct or indirect beneficial ownership of, or control or direction over, the securities.
- (2) You should use common sense in applying this Policy to your own circumstances, as we will apply the Policy according to its purpose.

1.3 Will a Canadian exchange impose additional escrow terms?

A Canadian exchange may impose additional conditions or more stringent release terms.

Part II Application of the Policy

2.1 When does this Policy apply?

This Policy applies when an issuer and/or one or more of its securityholders distributes shares or convertible securities (both defined in section 3.7) to the public by prospectus in one of the following ways (an **IPO**):

- (a) an initial distribution by the issuer
- (b) a distribution by one or more of the issuer's securityholders if it is the initial public distribution of the issuer's securities (e.g., a corporate spin-off)
- (c) a distribution, other than an initial distribution, by a reporting issuer and/or one or more of its securityholders, if no escrow has been previously imposed by a securities regulator or a Canadian exchange on the issuer's principals in connection with its current business.

2.2 What are the exceptions?

- (1) This Policy does not apply to a distribution by:
 - (a) an exempt issuer (defined in section 3.2);
 - (b) a capital pool company under Canadian Venture Exchange Inc. (**CDNX**) Policy 2.4;
 - (c) a Tier 3 issuer listed on CDNX; or
 - (d) an issuer that, following a business combination, is a successor to issuers whose principals have been subject to escrow requirements.
- (2) This Policy generally does not apply when there is only a prospectus that does not offer securities to the public, such as a prospectus that an issuer files with a securities regulator only to become a "reporting issuer".

2.3 How does this Policy apply to special warrant prospectuses?

- (1) Special warrants are convertible securities that a principal is required to place in escrow. The principal must also place the securities issued on conversion of the special warrants in escrow, even if the securities are qualified under the prospectus.
- (2) A prospectus that only qualifies the securities issued on conversion of special warrants is generally not an IPO prospectus because there are no additional proceeds raised. However, if there is a market for the securities, the prospectus may be considered an IPO prospectus for the purpose of this Policy. Otherwise, the IPO prospectus will be the next prospectus of the issuer that makes a public offering.

2.4 Can securities regulators impose additional or different terms?

A securities regulator may impose additional or different escrow terms if:

- (a) an underwriter has not signed the IPO prospectus;
- (b) the issuer has not applied to have its securities listed on a Canadian exchange, or a Canadian exchange has not agreed to list the securities distributed under the IPO prospectus; or
- (c) there are other exceptional circumstances.

Part III Escrow Classifications

3.1 Escrow classifications

Issuers are classified as either exempt issuers, established issuers or emerging issuers. Whether or not an issuer's securities will be subject to escrow, and the schedule for release of escrow securities from escrow will depend on the classification of the issuer.

3.2 Exempt issuers

Securities regulators do not generally consider that escrow is necessary for an exempt issuer. An **exempt issuer** is an issuer that, after its IPO:

- (a) has securities listed on The Toronto Stock Exchange (**TSE**) and is classified by the TSE as an exempt issuer; or
- (b) has a market capitalization of at least \$100 million. (In calculating market capitalization, multiply the number of the outstanding securities of the class of securities offered on the IPO, on completion of the IPO, by the IPO price.)

3.3 Established and emerging issuers

- (1) Securities regulators generally consider that escrow is necessary for established and emerging issuers.
- (2) An **established issuer** is an issuer that, after its IPO:
 - (a) has securities listed on the TSE and is not classified by the TSE as an exempt issuer;
 - (b) has securities listed on the CDNX and is a CDNX Tier 1 issuer; or
 - (c) has securities listed on the Bourse de Montréal Inc. (**Bourse**) and is eligible to be classified as a CDNX Tier 1 issuer.
- (3) An **emerging issuer** is an issuer that, after its IPO, is not an exempt issuer or an established issuer.

3.4 When is an issuer classified for escrow purposes?

An issuer is classified based on its circumstances immediately after completion of its IPO. If an emerging issuer becomes an established issuer at a later point, it may have the release schedule changed. See section 4.4.

3.5 Whose securities are subject to escrow?

- (1) Securities regulators generally require principals of an emerging or established issuer to place their securities in escrow under an escrow agreement.
- (2) A **principal** of an issuer is:
 - (a) a person or company who acted as a promoter of the issuer within two years before the IPO prospectus
 - (b) a director or senior officer of the issuer or any of its material operating subsidiaries at the time of the IPO prospectus
 - (c) a **20% holder** – a person or company that holds securities carrying more than 20% of the voting rights attached to the issuer's outstanding securities immediately before and immediately after the issuer's IPO
 - (d) a **10% holder** – a person or company that
 - (i) holds securities carrying more than 10% of the voting rights attached to the issuer's outstanding securities immediately before and immediately after the issuer's IPO and
 - (ii) has elected or appointed, or has the right to elect or appoint, one or more directors or senior officers of the issuer or any of its material operating subsidiaries.
- (3) In calculating these percentages, include securities that may be issued to the holder under outstanding convertible securities in both the holder's securities and the total securities outstanding.
- (4) A company, trust, partnership or other entity more than 50% held by one or more principals will be treated as a principal. (In calculating this percentage, include securities of the entity that may be issued to the principals under outstanding convertible securities in both the principals' securities of the entity and the total securities of the entity outstanding.) Any securities of the issuer that this entity holds will be subject to escrow requirements.
- (5) A principal's spouse and their relatives that live at the same address as the principal will also be treated as principals and any securities of the issuer they hold will be subject to escrow requirements.

3.6 Are any principals exempt from escrow requirements?

A principal that holds securities carrying less than 1% of the voting rights attached to an issuer's outstanding securities immediately after its IPO is not subject to escrow requirements. (In calculating this percentage, include securities that may be issued to that principal under outstanding convertible securities in both the principal's securities and the total securities outstanding.)

3.7 What types of securities are subject to escrow?

3.7.1 Escrow securities

- (1) The following securities are subject to escrow (**escrow securities**) if a principal holds them immediately before the issuer's IPO:
 - (a) **shares** – equity securities that carry the right to participate in earnings and assets remaining on winding-up or liquidation, including common shares, restricted voting shares, subordinate voting shares, multiple voting shares and non-voting shares
 - (b) **convertible securities** – securities that allow the holder to acquire shares or other convertible securities (such as warrants, special warrants qualified under the IPO prospectus, convertible shares, convertible debentures, rights and options), except for non-transferable incentive stock options issued to principals of the issuer to purchase securities solely for cash at a price equal to or greater than the IPO price
- (2) Securities will be released from escrow if they are sold in a “permitted secondary offering” which is defined in section 3.8.

3.7.2 Additional escrow securities

Shares and convertible securities that a holder of escrow securities acquires in relation to securities that are in escrow at the time:

- (a) as a dividend or other distribution;
- (b) on the exercise of a right of purchase, conversion or exchange, including securities received on conversion of special warrants;
- (c) on a subdivision, or compulsory or automatic conversion or exchange; or
- (d) from a successor issuer in a business combination, if this is required under Part V

(additional escrow securities) must be placed in escrow by the holder.

3.8 What is a permitted secondary offering?

- (1) A principal may sell its securities in the issuer in the issuer's IPO free of escrow in the following circumstances (**a permitted secondary offering**):
 - (a) the sale is conducted on a firmly underwritten basis; or

- (b) the sale is conducted on a best efforts basis after completion of the sale by the issuer of all or the specified minimum number of its securities offered in the IPO (if any), if the principal is not a promoter, director or senior officer of the issuer or any of its material operating subsidiaries.

- (2) The permitted secondary offering must be disclosed in the IPO prospectus.

3.9 Is there a standard form of escrow agreement?

The terms of escrow are set out in a written escrow agreement among an emerging issuer or an established issuer, an escrow agent and the issuer's principals whose securities are subject to escrow. The standard form of escrow agreement is attached as an Appendix to this Policy. An issuer must file a copy of the signed escrow agreement with securities regulators in the jurisdictions where the issuer files its IPO prospectus.

3.10 Who may be an escrow agent?

A person or company approved by a Canadian exchange to act as a transfer agent may be an escrow agent.

Part IV Release of Escrow Securities from Escrow

4.1 When are escrow securities released from escrow?

- (1) The release of escrow securities from escrow will vary depending on the escrow classification of the issuer that issued the securities. Principals of established issuers will have their escrow securities released from escrow over an 18-month period. Principals of emerging issuers will have their escrow securities released over a three-year period. The timing of escrow release will also be affected if a securityholder dies, if an emerging issuer becomes an established issuer, or if an issuer is party to a business combination.

- (2) The escrow agreement sets out release procedures for escrow securities.

4.2 Release schedule for established issuers

4.2.1 Usual case

A principal's escrow securities in an established issuer are released as follows:

On the date the issuer's securities are listed on a Canadian exchange (the listing date)	25% of the escrow securities
6 months after the listing date	25% of the escrow securities
12 months after the listing date	25% of the escrow securities
18 months after the listing date	25% of the escrow securities

4.2.2 If there is a permitted secondary offering

- (1) If a principal has sold in a permitted secondary offering more than 25% of that principal's escrow securities, the principal's escrow securities are released as follows:

For delivery to complete the issuer's IPO	All escrow securities sold in the permitted secondary offering
6 months after the listing date	33 1/3% of the unsold escrow securities
12 months after the listing date	33 1/3% of the unsold escrow securities
18 months after the listing date	33 1/3% of the unsold escrow securities

- (2) If a principal has sold in a permitted secondary offering 25% or less of that principal's escrow securities, the principal's escrow securities are released as follows:

For delivery to complete the issuer's IPO	All escrow securities sold in the permitted secondary offering
On the listing date	25% of the escrow securities less the escrow securities sold in the permitted secondary offering
6 months after the listing date	25% of the escrow securities
12 months after the listing date	25% of the escrow securities
18 months after the listing date	25% of the escrow securities

4.2.3 Additional escrow securities

If a holder of escrow securities acquires additional escrow securities, they are released in equal portions on the remaining release dates.

4.3 Release schedule for emerging issuers

4.3.1 Usual case

A principal's escrow securities in an emerging issuer are released as follows:

On the date the issuer's securities are listed on a Canadian exchange (the listing date)	10% of the escrow securities
6 months after the listing date	15% of the escrow securities
12 months after the listing date	15% of the escrow securities
18 months after the listing date	15% of the escrow securities
24 months after the listing date	15% of the escrow securities
30 months after the listing date	15% of the escrow securities
36 months after the listing date	15% of the escrow securities

4.3.2 Alternate meaning of "listing date"

The **listing date** is the date the issuer completes its IPO if:

- (a) the issuer's securities are not listed on a Canadian exchange immediately after its IPO; or
- (b) the issuer's securities are listed on a Canadian exchange immediately before its IPO.

4.3.3

If there is a permitted secondary offering

- (1) If a principal has sold in a permitted secondary offering more than 10% of that principal's escrow securities, the principal's escrow securities are released as follows:

For delivery to complete the issuer's IPO	All escrow securities sold in the permitted secondary offering
6 months after the listing date	16 2/3% of the unsold escrow securities
12 months after the listing date	16 2/3% of the unsold escrow securities
18 months after the listing date	16 2/3% of the unsold escrow securities
24 months after the listing date	16 2/3% of the unsold escrow securities
30 months after the listing date	16 2/3% of the unsold escrow securities
36 months after the listing date	16 2/3% of the unsold escrow securities

- (2) If a principal has sold in a permitted secondary offering 10% or less of that principal's escrow securities, the principal's escrow securities are released as follows:

For delivery to complete the issuer's IPO	All escrow securities sold in the permitted secondary offering
On the listing date	10% of the escrow securities less the escrow securities sold in the permitted secondary offering
6 months after the listing date	15% of the escrow securities
12 months after the listing date	15% of the escrow securities
18 months after the listing date	15% of the escrow securities
24 months after the listing date	15% of the escrow securities
30 months after the listing date	15% of the escrow securities
36 months after the listing date	15% of the escrow securities

4.3.4

Additional escrow securities

If a holder of escrow securities acquires additional escrow securities, they are released in equal portions on the remaining release dates.

4.4

What happens if an emerging issuer becomes an established issuer after its IPO?

- (1) An emerging issuer becomes an established issuer if it:
- (a) lists its securities on the TSE;
 - (b) becomes a CDNX Tier 1 issuer;
 - (c) has its securities listed on the Bourse and become eligible to be classified as a CDNX Tier 1 issuer; or
 - (d) lists or quotes its securities on an exchange or market outside Canada that its "principal regulator" under National Policy 43-201 *Mutual Reliance Review System for Prospectuses and Annual Information Forms* or, if the issuer has only filed its IPO prospectus in one jurisdiction, the securities regulator in that jurisdiction, is satisfied has minimum listing requirements at least equal to those of CDNX Tier 1.

- (2) If an emerging issuer becomes an established issuer 18 months or more after its listing date, all escrow securities will be released immediately.
- (3) If an emerging issuer becomes an established issuer within 18 months after its listing date, all escrow securities that would have been released to that time, if the issuer was an established issuer on its listing date, will be released immediately. Remaining escrow securities will be released in equal instalments on the day that is 6 months, 12 months and 18 months after the listing date.

4.5 Release of escrow securities on death of holder

If a holder of escrow securities dies, the holder's escrow securities will be released from escrow.

4.6 Release of escrow securities

Once escrow securities are released from escrow, they are no longer escrow securities for the purpose of this Policy.

Part V Business Combinations

5.1 When does this Part apply?

This Part applies to business combinations. A **business combination** is:

- (a) a formal take-over bid
- (b) a plan of arrangement
- (c) an amalgamation
- (d) a merger
- (e) any other similar transaction

5.2 Can a holder of escrow securities tender them in a business combination?

- (1) Yes, a holder of escrow securities can tender them in a business combination. The tendered escrow securities will be released from escrow and delivered under the business combination if the terms and conditions of the business combination have been satisfied or waived.
- (2) The escrow agreement contains special procedures for tendering escrow securities.

5.3 If the holder receives securities of another issuer in exchange for the holder's escrow securities, will the new securities be subject to escrow?

If the holder receives securities of another issuer (**successor issuer**) in exchange for the holder's escrow securities, the new securities will be subject to escrow, if immediately upon completion of the business combination:

- (a) the successor issuer is not an exempt issuer (defined in section 3.2);
- (b) the holder is a principal (defined in section 3.5) of the successor issuer; and

- (c) the holder holds more than 1% of the voting rights attached to the successor issuer's outstanding securities. (In calculating this percentage, include securities that may be issued to the principal under outstanding convertible securities to both the principal's securities and the total securities outstanding.)

5.4 If the new securities are subject to escrow, when will they be released?

- (1) If the new securities are subject to escrow, the escrow agent will hold the new securities in escrow on the same terms and conditions, including release dates, as applied to the escrow securities that were exchanged.
- (2) However, if the issuer is an emerging issuer, the successor issuer is an established issuer, and the business combination occurs 18 months or more after the issuer's listing date, all escrow securities will be released immediately.
- (3) If the issuer is an emerging issuer, the successor issuer is an established issuer and the business combination occurs within 18 months after the issuer's listing date, all escrow securities that would have been released to that time, if the issuer was an established issuer on its listing date, will be released immediately. Remaining escrow securities will be released in equal instalments on the day that is 6 months, 12 months and 18 months after the issuer's listing date.

Part VI Dealing with Escrow Securities

6.1 Can a holder of escrow securities vote and receive distributions on the escrow securities?

A holder of escrow securities may vote and receive distributions on the holder's escrow securities.

6.2 Restrictions on dealing with escrow securities

Escrow restricts the ability of holders to deal with their escrow securities while they are in escrow. The standard form of escrow agreement sets out these restrictions. Except to the extent that the escrow agreement expressly permits, a principal cannot sell, transfer, mortgage, enter into a derivative transaction concerning, or otherwise deal in any way with the holder's escrow securities or the related share certificates or other evidence of the escrow securities. A private company, controlled by one or more principals of the issuer, that holds escrow securities of the issuer, may not participate in a transaction that results in a change of its control or a change in the economic exposure of the principals to the risks of holding escrow securities.

6.3 When can a holder of escrow securities transfer them within escrow?

- (1) A holder may transfer escrow securities within escrow:
 - (a) to existing or, upon their appointment, incoming directors or senior officers of the issuer or any of its material operating subsidiaries, if the issuer's board of directors has approved the transfer;
 - (b) to a person or company that before the proposed transfer holds more than 20% of the voting rights attached to the issuer's outstanding securities;

- (c) to a person or company that after the proposed transfer
 - (i) will hold more than 10% of the voting rights attached to the issuer's outstanding securities, and
 - (ii) has the right to elect or appoint one or more directors or senior officers of the issuer or any of its material operating subsidiaries;
 - (d) to a trustee in bankruptcy or another person or company entitled to escrow securities on the bankruptcy of the holder;
 - (e) to a financial institution on the realization of escrow securities pledged, mortgaged or charged by the holder to the financial institution as collateral for a loan; or
 - (f) to or between a registered retirement savings plan (RRSP), registered retirement income fund (RRIF) or other similar registered plan or fund with a trustee, where the beneficiaries of the plan or fund are limited to the holder and his or her spouse, children and parents.
- (2) The escrow agreement sets out transfer procedures for escrow securities.
 - (3) Securities laws and other legislation may impose additional restrictions on transfer. (See section 7.4.)

6.4 Can a holder pledge, mortgage or charge escrow securities as collateral for a loan?

A holder can pledge, mortgage or charge escrow securities to a financial institution as collateral for a loan. The loan agreement must provide that the escrow securities will remain in escrow if the lender realizes on the escrow securities to satisfy the loan.

6.5 Can a holder exchange or convert convertible escrow securities?

A holder of a convertible security that is in escrow may exchange or convert the security within escrow. Securities acquired on conversion or exchange of convertible escrow securities are additional escrow securities and remain in escrow.

Part VII General Provisions

7.1 Amendments to escrow agreement require regulatory approval

The securities regulator in each jurisdiction where the issuer files its IPO prospectus has jurisdiction over the escrow agreement and escrow securities of the issuer. No amendment to an escrow agreement is valid unless the securities regulators that have jurisdiction have approved it.

7.2 Will mutual reliance principles apply to escrow filings?

Yes, the securities regulators will apply mutual reliance principles in administering this Policy.

7.3 What happens if an issuer does not complete its IPO?

If an issuer does not complete its IPO and becomes a reporting issuer in one or more jurisdictions because it has obtained a receipt for its IPO prospectus, its escrow agreement will remain in effect until the securities regulators in those jurisdictions order that the issuer has ceased to be a reporting issuer.

7.4 Do local resale restrictions still apply to escrow securities after they are released from escrow?

Although this Policy may permit the release of escrow securities from escrow or permit a holder to transfer or deal in other ways with escrow securities, other restrictions imposed by securities legislation, securities regulators and Canadian exchanges will still apply.

Part VIII Amendment of Release Terms in Escrow Agreements Made Prior to this Policy

8.1 Can the release terms of escrow agreements made prior to this Policy be amended?

- (1) The securities regulators consent to amendments to escrow agreements made prior to the date of this Policy (**existing escrow agreements**) to reflect the release terms of this Policy on the following conditions:
 - (a) The issuer's board of directors must have approved the amendment.
 - (b) All parties to the existing escrow agreement, except parties whose securities are no longer in escrow, must have agreed to the amendment.
 - (c) The issuer must have obtained any approval by a Canadian exchange required by the existing escrow agreement.
 - (d) The amendment must have been approved by a majority vote of the securityholders of the issuer, or consented to by securityholders holding a majority of the securities of the issuer, excluding in each case escrow securityholders and their affiliates and associates.
 - (e) The amendment to the release terms must apply to all escrow securities.
 - (f) Once the escrow agreement has been amended and these conditions have been met, the issuer must issue a news release at least 60 days before the first release of escrow securities under the amended escrow agreement notifying the market of the amendment and the new release terms.
 - (g) The issuer's classification as an exempt, established or emerging issuer must be determined at the date of the news release.
 - (h) The news release must set out the date of the first release of escrow securities under the amended escrow agreement. The first release date must be at least 60 days after the news release and that date will take the place of the listing date for purposes of the appropriate release schedule under this Policy.

- (i) If the issuer is an exempt issuer, all escrow securities may be released no earlier than 60 days after the news release, subject to the 10% limit in (k) below.
- (j) If the issuer is an emerging or an established issuer, the new release schedule must be the schedule included in this Policy for that class of issuer, subject to the 10% limit in (k) below.
- (k) The number of escrow securities to be released at any one time may not exceed 10% of the issuer's outstanding securities at the time of release. Securities remaining in escrow after the last scheduled release will continue to be released from escrow at 6-month intervals until all escrow securities have been released.
- (l) Escrow securities must be released on a pro rata basis, with each holder of escrow securities receiving the same percentage of the escrow securities that are released as the percentage of total escrow securities held by the holder.
- (m) The issuer must file with the securities regulators in the jurisdictions where it filed its IPO prospectus:
 - (i) a copy of the amended escrow agreement, and
 - (ii) a certificate of a director or senior officer of the issuer confirming that the escrow agreement has been amended in accordance with this Part.
- (2) The parties to an existing escrow agreement may amend the agreement by entering into an agreement in the form of Form 46-201F *Escrow Agreement*.
- (3) Our consent does not limit the right of a Canadian exchange to impose additional conditions or more stringent release terms.

Part IX Effective Date

This Policy takes effect on • 2001.

This is the form required for escrow arrangements under National Policy 46-201 *Escrow for Initial Public Offerings*.

APPENDIX

FORM 46-201F ESCROW AGREEMENT

TABLE OF CONTENTS

PART	TITLE	PAGE
PART 1	ESCROW	1
	1.1 Appointment of Escrow Agent	1
	1.2 Deposit of Escrow Securities in Escrow	1
	1.3 Direction to Escrow Agent	2
PART 2	RELEASE OF ESCROW SECURITIES	2
	2.1 Release Schedule for an Established Issuer	2
	2.2 Release Schedule for an Emerging Issuer	3
	2.3 Delivery of Share Certificates for Escrow Securities	4
	2.4 Replacement Certificates	4
	2.5 Release upon Death	5
PART 3	EARLY RELEASE ON CHANGE OF ISSUER STATUS	5
	3.1 Becoming an Established Issuer	5
	3.2 Release of Escrow Securities	5
	3.3 Filing Requirements	6
	3.4 Amendment of Release Schedule	6
	3.5 First Release under New Schedule	7
PART 4	DEALING WITH ESCROW SECURITIES	7
	4.1 Restriction on Transfer, etc.	7
	4.2 Pledge, Mortgage or Charge as Collateral for a Loan	7
	4.3 Voting of Escrow Securities	7
	4.4 Dividends on Escrow Securities	7
	4.5 Exercise of Other Rights Attaching to Escrow Securities	7
PART 5	PERMITTED TRANSFERS WITHIN ESCROW	7
	5.1 Transfer to Directors and Senior Officers	7
	5.2 Transfer to Other Principals	8
	5.3 Transfer upon Bankruptcy	9
	5.4 Transfer upon Realization of Pledged, Mortgaged or Charged Escrow Securities	10
	5.5 Transfer to Certain Plans and Funds	10
	5.6 Effect of Transfer Within Escrow	10

PART 6	BUSINESS COMBINATIONS	11
	6.1 Business Combinations	11
	6.2 Delivery to Escrow Agent	11
	6.3 Delivery to Depositary	11
	6.4 Release of Escrow Securities to Depositary	12
	6.5 Escrow of New Securities	12
	6.6 Release from Escrow of New Securities	12
PART 7	ESCROW AGENT	13
	7.1 Escrow Agent Not Responsible for Genuineness	13
	7.2 Escrow Agent Not Responsible for Furnished Information	13
	7.3 Escrow Agent Not Responsible after Release	13
	7.4 Indemnification of Escrow Agent	14
	7.5 Additional Provisions	14
	7.6 Remuneration of Escrow Agent	15
	7.7 Resignation of Escrow Agent	15
PART 8	NOTICES	16
	8.1 Notice to Escrow Agent	16
	8.2 Notice to Issuer	16
	8.3 Deliveries to Securityholders	16
	8.4 Change of Address	16
	8.5 Postal Interruption	16
PART 9	GENERAL	16
	9.1 Interpretation – “holding securities”	16
	9.2 Further Assurances	17
	9.3 Time	17
	9.4 Incomplete IPO	17
	9.5 Jurisdiction	17
	9.6 Consent of Securities Regulators to Amendment	17
	9.7 Governing Laws	17
	9.8 Counterparts	17
	9.9 Singular and Plural	17
	9.10 Language	17
	9.11 Benefit and Binding Effect	17
	9.12 Entire Agreement	18
	9.13 Successor to Escrow Agent	18

Schedule “A”

Schedule “B”

ESCROW AGREEMENT

THIS AGREEMENT is made as of the _____ day of _____, _____

AMONG:

(the “**Issuer**”)

AND:

(the “**Escrow Agent**”)

AND:

EACH OF THE UNDERSIGNED SECURITYHOLDERS OF THE ISSUER

(a “**Securityholder**” or “**you**”)

(collectively, the “**Parties**”)

This Agreement is being entered into by the Parties under National Policy 46-201 *Escrow for Initial Public Offerings* (the **Policy**) in connection with the proposed distribution by the Issuer, an [established/emerging] issuer, of [describe securities] by prospectus (the **IPO**) and/or a proposed distribution by certain Securityholders, namely [names of Securityholders], of [specify number of securities distributed by each Securityholder and what percentage of each Securityholder’s securities that number represents] (the **permitted secondary offering**).

For good and valuable consideration, the Parties agree as follows:

PART 1 ESCROW

1.1 Appointment of Escrow Agent

The Issuer and the Securityholders appoint the Escrow Agent to act as escrow agent under this Agreement. The Escrow Agent accepts the appointment.

1.2 Deposit of Escrow Securities in Escrow

- (1) You are depositing the securities (**escrow securities**) listed opposite your name in Schedule “A” with the Escrow Agent to be held in escrow under this Agreement. You will deliver to the Escrow Agent any share certificates or other evidence of these securities you receive.
- (2) If you receive any other securities (**additional escrow securities**):
 - (a) as a dividend or other distribution on escrow securities;
 - (b) on the exercise of a right of purchase, conversion or exchange attaching to escrow securities, including securities received on conversion of special warrants;

- (c) on a subdivision, or compulsory or automatic conversion or exchange of escrow securities; or
- (d) from a successor issuer in a business combination, if Part 6 of this Agreement applies,

you will deposit them in escrow with the Escrow Agent. You will deliver to the Escrow Agent any share certificates or other evidence of those additional escrow securities. When this Agreement refers to **escrow securities**, it includes additional escrow securities.

- (3) You will deliver to the Escrow Agent any replacement share certificates or other evidence of additional escrow securities issued to you.

1.3 Direction to Escrow Agent

The Issuer and the Securityholders direct the Escrow Agent to hold the escrow securities in escrow until they are released from escrow under this Agreement.

PART 2 RELEASE OF ESCROW SECURITIES

2.1 Release Schedule for an Established Issuer

2.1.1 Usual case

If the Issuer is an **established issuer** (as defined in section 3.3 of the Policy) and you have not sold any escrow securities in a permitted secondary offering, your escrow securities will be released as follows:

On _____, 2____, the date the Issuer's securities are listed on a Canadian exchange (the listing date)	25% of your escrow securities
6 months after the listing date	25% of your escrow securities
12 months after the listing date	25% of your escrow securities
18 months after the listing date	25% of your escrow securities

2.1.2 If there is a permitted secondary offering

- (1) If the Issuer is an established issuer and you have sold in a permitted secondary offering more than 25% of your escrow securities, your escrow securities will be released as follows:

For delivery to complete the Issuer's IPO	All escrow securities sold by you in the permitted secondary offering
6 months after the listing date	33 1/3% of your unsold escrow securities
12 months after the listing date	33 1/3% of your unsold escrow securities
18 months after the listing date	33 1/3% of your unsold escrow securities

- (2) If the Issuer is an established issuer and you have sold in a permitted secondary offering 25% or less of your escrow securities, your escrow securities will be released as follows:

For delivery to complete the Issuer's IPO	All escrow securities sold by you in the permitted secondary offering
On the listing date	25% of your escrow securities less the escrow securities sold by you in the permitted secondary offering
6 months after the listing date	25% of your escrow securities
12 months after the listing date	25% of your escrow securities
18 months after the listing date	25% of your escrow securities

2.1.3 Additional escrow securities

If you acquire additional escrow securities, those securities will be released in equal portions on the remaining release dates.

2.2 Release Schedule for an Emerging Issuer

2.2.1 Usual case

- (1) If the Issuer is an **emerging issuer** (as defined in section 3.3 of the Policy) and you have not sold any escrow securities in a permitted secondary offering, your escrow securities will be released as follows:

On _____, 2____, the date the Issuer's securities are listed on a Canadian exchange (the listing date)	10% of your escrow securities
6 months after the listing date	15% of your escrow securities
12 months after the listing date	15% of your escrow securities
18 months after the listing date	15% of your escrow securities
24 months after the listing date	15% of your escrow securities
30 months after the listing date	15% of your escrow securities
36 months after the listing date	15% of your escrow securities

- (2) The **listing date** is the date the Issuer completes its IPO if:
- (a) the Issuer's securities are not listed on a Canadian exchange immediately after its IPO; or
 - (b) the Issuer's securities are listed on a Canadian exchange immediately before its IPO.

2.2.2 If there is a permitted secondary offering

- (1) If the Issuer is an emerging issuer and you have sold in a permitted secondary offering more than 10% of your escrow securities, your escrow securities will be released as follows:

For delivery to complete the Issuer's IPO	All escrow securities sold by you in the permitted secondary offering
6 months after the listing date	16 2/3% of your unsold escrow securities
12 months after the listing date	16 2/3% of your unsold escrow securities
18 months after the listing date	16 2/3% of your unsold escrow securities
24 months after the listing date	16 2/3% of your unsold escrow securities
30 months after the listing date	16 2/3% of your unsold escrow securities
36 months after the listing date	16 2/3% of your unsold escrow securities

- (2) If the Issuer is an emerging issuer and you have sold in a permitted secondary offering 10% or less of your escrow securities, your escrow securities will be released as follows:

For delivery to complete the Issuer's IPO	All escrow securities sold by you in the permitted secondary offering
On the listing date	10% of your escrow securities less the escrow securities sold by you in the permitted secondary offering
6 months after the listing date	15% of your escrow securities
12 months after the listing date	15% of your escrow securities
18 months after the listing date	15% of your escrow securities
24 months after the listing date	15% of your escrow securities
30 months after the listing date	15% of your escrow securities
36 months after the listing date	15% of your escrow securities

2.2.3 Additional escrow securities

If you acquire additional escrow securities, those securities are released in equal portions on the remaining release dates.

2.3 Delivery of Share Certificates for Escrow Securities

The Escrow Agent will send to each Securityholder the share certificates or other evidence of that Securityholder's escrow securities released from escrow as soon as reasonably practicable after the release. The share certificates or other evidence of the escrow securities will be sent to the Securityholder's address on the Issuer's share register unless the Securityholder has advised the Escrow Agent in writing otherwise before the escrow securities are released from escrow.

2.4 Replacement Certificates

If, on the date a Securityholder's escrow securities are to be released, the Escrow Agent holds a share certificate or other evidence representing more escrow securities than are to be released, the Escrow Agent will deliver the share certificate or other evidence to the Issuer or its transfer agent and request replacement share certificates or other evidence. The Issuer will cause replacement share certificates or other evidence to be prepared and delivered to the Escrow Agent. After the Escrow Agent receives the replacement share certificates or other evidence, the Escrow Agent will send to the Securityholder or at the Securityholder's direction, the replacement share certificate or other evidence of

the escrow securities released. The Escrow Agent and Issuer will act as soon as reasonably practicable.

2.5 Release upon Death

- (1) If a Securityholder dies, the Securityholder's escrow securities will be released from escrow. The Escrow Agent will deliver the share certificates or other evidence of the escrow securities to the Securityholder's legal representative.
- (2) Prior to delivery the Escrow Agent must receive:
 - (a) a certified copy of the death certificate; and
 - (b) any evidence of the legal representative's status that the Escrow Agent may reasonably require.

PART 3 EARLY RELEASE ON CHANGE OF ISSUER STATUS

3.1 Becoming an Established Issuer

If the Issuer is an emerging issuer on the date of this Agreement and, during this Agreement, the Issuer:

- (a) lists its securities on The Toronto Stock Exchange;
- (b) becomes a Canadian Venture Exchange (**CDNX**) Tier 1 issuer;
- (c) if the Issuer's securities are listed on the Bourse de Montréal Inc., becomes eligible to be classified as a CDNX Tier 1 issuer; or
- (d) lists or quotes its securities on an exchange or market outside Canada that its "principal regulator" under National Policy 43-201 *Mutual Reliance Review System for Prospectuses and Annual Information Forms* or, if the Issuer has only filed its IPO prospectus in one jurisdiction, the securities regulator in that jurisdiction, is satisfied has minimum listing requirements at least equal to those of CDNX Tier 1,

then the Issuer becomes an **established issuer**.

3.2 Release of Escrow Securities

- (1) When an emerging issuer becomes an established issuer, the release schedule for its escrow securities changes.
- (2) If an emerging issuer becomes an established issuer 18 months or more after its listing date, all escrow securities will be released immediately.
- (3) If an emerging issuer becomes an established issuer within 18 months after its listing date, all escrow securities that would have been released to that time, if the Issuer was an established issuer on its listing date, will be released immediately. Remaining escrow securities will be released in equal instalments on the day that is 6 months, 12 months and 18 months after the listing date.

3.3

Filing Requirements

- (1) Escrow securities will not be released under this Part until the Issuer does the following:
 - (a) at least 20 days before the date of the first release of escrow securities under the new release schedule, files with the securities regulators in the jurisdictions in which it is a reporting issuer
 - (i) an officer's certificate stating
 - (A) that the Issuer has become an established issuer by satisfying one of the conditions in section 3.1 and specifying the condition, and
 - (B) the number of escrow securities to be released on the first release date under the new release schedule, and
 - (ii) a copy of a letter or other evidence from the exchange or quotation service confirming that the Issuer has satisfied the condition to become an established issuer; and
 - (b) at least 10 days before the date of the first release of escrow securities under the new release schedule, issues and files with the securities regulators in the jurisdictions in which it is a reporting issuer a news release disclosing details of the first release of the escrow securities and the change in the release schedule.
- (2) If escrow securities remain in escrow after the first release under the new release schedule, then within 10 days after the date of the first release, the Issuer will deliver to the Escrow Agent and file with the securities regulators in the jurisdictions in which it is a reporting issuer an amended copy of this Agreement (with amendments indicated).

3.4

Amendment of Release Schedule

This Agreement will be deemed to be amended to reflect the new release schedule after the Escrow Agent receives an officer's certificate

- (a) stating that the Issuer has become an established issuer by satisfying one of the conditions in section 3.1 and specifying the condition;
- (b) stating that the release schedule for the Issuer's escrow securities has changed;
- (c) stating that the Issuer has issued a news release at least 10 days before the first release date under the new release schedule and specifying the date that the news release was issued; and
- (d) specifying the new release schedule.

3.5 First Release under New Schedule

- (1) The Escrow Agent will release your escrow securities in accordance with the amended Agreement.
- (2) The share certificates or other evidence of a Securityholder's escrow securities will be sent to the Securityholder's address on the Issuer's share register unless the Securityholder has advised the Escrow Agent in writing otherwise before the escrow securities are released from escrow.

PART 4 DEALING WITH ESCROW SECURITIES

4.1 Restriction on Transfer, etc.

Unless it is expressly permitted in this Agreement, you will not sell, transfer, mortgage, enter into a derivative transaction concerning, or otherwise deal in any way with your escrow securities or the related share certificates or other evidence of the escrow securities. If a Securityholder is a private company controlled by one or more principals (as defined in section 3.5 of the Policy) of the Issuer, the Securityholder may not participate in a transaction that results in a change of its control or a change in the economic exposure of the principals to the risks of holding escrow securities.

4.2 Pledge, Mortgage or Charge as Collateral for a Loan

You may pledge, mortgage or charge your escrow securities to a financial institution as collateral for a loan. The loan agreement must provide that the escrow securities will remain in escrow if the lender realizes on the escrow securities to satisfy the loan.

4.3 Voting of Escrow Securities

You may vote your escrow securities.

4.4 Dividends on Escrow Securities

You may receive a dividend or other distribution on your escrow securities, and elect the manner of payment from the standard options offered by the Issuer. If the Escrow Agent receives a dividend or other distribution on your escrow securities, other than additional escrow securities, the Escrow Agent will pay the dividend or other distribution to you on receipt.

4.5 Exercise of Other Rights Attaching to Escrow Securities

You may exercise your rights to exchange or convert your escrow securities.

PART 5 PERMITTED TRANSFERS WITHIN ESCROW

5.1 Transfer to Directors and Senior Officers

- (1) You may transfer escrow securities within escrow to existing or, upon their appointment, incoming directors or senior officers of the Issuer or any of its material operating subsidiaries, if the Issuer's board of directors has approved the transfer.

- (2) Prior to the transfer the Escrow Agent must receive:
 - (a) a certified copy of the resolution of the board of directors of the Issuer approving the transfer;
 - (b) an officer's certificate stating that the transfer is to an existing or, upon his or her appointment, an incoming director or senior officer of the Issuer or a material operating subsidiary and that any required approval from the Canadian exchange the Issuer is listed on has been received;
 - (c) an acknowledgment in the form of Schedule "B" signed by the transferee;
 - (d) copies of the letters sent to the securities regulators accompanying the acknowledgement; and
 - (e) a transfer power of attorney, duly completed and executed by the transferor in accordance with the requirements of the Issuer's transfer agent.
- (3) At least 10 days prior to the transfer, the Issuer will file a copy of the acknowledgement with the securities regulators in the jurisdictions in which it is a reporting issuer.

5.2 Transfer to Other Principals

- (1) You may transfer escrow securities within escrow:
 - (a) to a person or company that before the proposed transfer holds more than 20% of the voting rights attached to the Issuer's outstanding securities; or
 - (b) to a person or company that after the proposed transfer
 - (i) will hold more than 10% of the voting rights attached to the Issuer's outstanding securities, and
 - (ii) has the right to elect or appoint one or more directors or senior officers of the Issuer or any of its material operating subsidiaries.
- (2) Prior to the transfer the Escrow Agent must receive:
 - (a) an officer's certificate stating that
 - (i) the transfer is to a person or company that the officer believes, after reasonable investigation, holds more than 20% of the voting rights attached to the Issuer's outstanding securities before the proposed transfer, or
 - (ii) the transfer is to a person or company that
 - (A) the officer believes, after reasonable investigation, will hold more than 10% of the voting rights attached to the Issuer's outstanding securities, and

- (B) has the right to elect or appoint one or more directors or senior officers of the Issuer or any of its material operating subsidiaries

after the proposed transfer, and

- (iii) any required approval from the Canadian exchange the Issuer is listed on has been received;
 - (b) an acknowledgment in the form of Schedule "B" signed by the transferee;
 - (c) copies of the letters sent to the securities regulators accompanying the acknowledgement; and
 - (d) a transfer power of attorney, duly executed by the transferor in accordance with the requirements of the Issuer's transfer agent.
- (3) At least 10 days prior to the transfer, the Issuer will file a copy of the acknowledgement with the securities regulators in the jurisdictions in which it is a reporting issuer.

5.3 Transfer upon Bankruptcy

- (1) You may transfer escrow securities within escrow to a trustee in bankruptcy or another person or company entitled to escrow securities on bankruptcy.
- (2) Prior to the transfer, the Escrow Agent must receive:
 - (a) a certified copy of either
 - (i) the assignment in bankruptcy filed with the Superintendent of Bankruptcy, or
 - (ii) the receiving order adjudging the Securityholder bankrupt;
 - (b) a certified copy of a certificate of appointment of the trustee in bankruptcy;
 - (c) a transfer power of attorney, duly completed and executed by the transferor in accordance with the requirements of the Issuer's transfer agent; and
 - (d) an acknowledgment in the form of Schedule "B" signed by the trustee in bankruptcy or other person or company legally entitled to the escrow securities.
- (3) Within 10 days after the transfer, the transferee of the escrow securities will file a copy of the acknowledgment with the securities regulators in the jurisdictions in which the Issuer is a reporting issuer.

5.4 Transfer Upon Realization of Pledged, Mortgaged or Charged Escrow Securities

- (1) You may transfer escrow securities you have pledged, mortgaged or charged under section 4.2 to a financial institution as collateral for a loan within escrow to the lender on realization.
- (2) Prior to the transfer the Escrow Agent must receive:
 - (a) a statutory declaration of an officer of the financial institution that the financial institution is legally entitled to the escrow securities;
 - (b) a transfer power of attorney, duly executed by the transferor in accordance with the requirements of the Issuer's transfer agent; and
 - (c) an acknowledgement in the form of Schedule "B" signed by the financial institution.
- (3) Within 10 days after the transfer, the transferee of the escrow securities will file a copy of the acknowledgment with the securities regulators in the jurisdictions in which the Issuer is a reporting issuer.

5.5 Transfer to Certain Plans and Funds

- (1) You may transfer escrow securities within escrow to or between a registered retirement savings plan (RRSP), registered retirement income fund (RRIF) or other similar registered plan or fund with a trustee, where the beneficiaries of the plan or fund are limited to you and your spouse, children and parents.
- (2) Prior to the transfer the Escrow Agent must receive:
 - (a) evidence from the trustee of the transferee plan or fund, stating that, to the best of the trustee's knowledge, the beneficiaries of the plan or fund do not include any person or company other than you and your spouse, children and parents;
 - (b) a transfer power of attorney, duly executed by the transferor in accordance with the requirements of the Issuer's transfer agent; and
 - (c) an acknowledgement in the form of Schedule "B" signed by the trustee of the plan or fund.
- (3) Within 10 days after the transfer, the transferee of the escrow securities will file a copy of the acknowledgment with the securities regulators in the jurisdictions in which the Issuer is a reporting issuer.

5.6 Effect of Transfer Within Escrow

After the transfer of escrow securities within escrow, the escrow securities will be held in escrow and released from escrow under this Agreement on the same terms that applied before the transfer.

PART 6 BUSINESS COMBINATIONS

6.1 Business Combinations

This Part applies to the following **(business combinations)**:

- (a) a formal take-over bid
- (b) a plan of arrangement
- (c) an amalgamation
- (d) a merger
- (e) any other similar transaction

6.2 Delivery to Escrow Agent

You may tender your escrow securities to a person or company in a business combination. At least three business days prior to the date the escrow securities must be tendered under the business combination, you must deliver to the Escrow Agent:

- (a) a written direction signed by you that directs the Escrow Agent to deliver to the depository under the business combination either
 - (i) share certificates or other evidence of the escrow securities, or
 - (ii) if you have provided the Escrow Agent with a notice of guaranteed delivery or similar notice of your intent to tender the escrow securities to the business combination, that notice,

and a duly completed and executed cover letter or similar document and, where required, transfer power of attorney duly completed and executed for transfer in accordance with the requirements of the depository, and any other documentation specified or provided by you and required to be delivered to the depository under the business combination; and

- (b) any other information concerning the business combination as the Escrow Agent may reasonably require.

6.3 Delivery to Depository

Immediately after the Escrow Agent receives the documents and information required under section 6.2, the Escrow Agent will deliver to the depository, in accordance with the direction, the documentation described in 6.2(a), and a letter addressed to the depository that

- (a) identifies the escrow securities that are being tendered;
- (b) states that the escrow securities are held in escrow;
- (c) states that the escrow securities are delivered only for the purposes of the business combination and that they will be released from escrow only after the Escrow Agent receives the information described in section 6.4;
- (d) if share certificates or other evidence of the escrow securities have been delivered to the depository, requires the depository to return to the Escrow Agent, as soon as practicable, the share certificates or other evidence of escrow securities that are not released from escrow into the business combination; and

- (e) where applicable, requires the depository to deliver or cause to be delivered to the Escrow Agent, as soon as practicable, share certificates or other evidence of additional escrow securities that you acquire under the business combination.

6.4 Release of Escrow Securities to Depository

The Escrow Agent will release from escrow the tendered escrow securities when the Escrow Agent receives a declaration signed by the depository or, if the direction identifies the depository as acting on behalf of another person or company in respect of the business combination, by that other person or company, that:

- (a) the terms and conditions of the business combination have been met or waived; and
- (b) the escrow securities have either been taken up and paid for or are subject to an unconditional obligation to be taken up and paid for under the business combination.

6.5 Escrow of New Securities

If you receive securities (**new securities**) of another issuer (**successor issuer**) in exchange for your escrow securities, the new securities will be subject to escrow in substitution for the tendered escrow securities if, immediately after completion of the business combination:

- (a) the successor issuer is not an **exempt issuer** (as defined in section 3.2 of the Policy);
- (b) you are a **principal** (as defined in section 3.5 of the Policy) of the successor issuer; and
- (c) you hold more than 1% of the voting rights attached to the successor issuer's outstanding securities (In calculating this percentage, include securities that may be issued to you under outstanding convertible securities in both your securities and the total securities outstanding.)

6.6 Release from Escrow of New Securities

(1) The Escrow Agent will send to a Securityholder share certificates or other evidence of the Securityholder's new securities as soon as reasonably practicable after the Escrow Agent receives:

- (a) an officer's certificate from the successor issuer
 - (i) stating that it is a successor issuer to the Issuer as a result of a business combination,
 - (ii) containing a list of the securityholders whose new securities are subject to escrow under section 6.5, and
 - (iii) containing a list of the securityholders whose new securities are not subject to escrow under section 6.5; and

- (b) if the Securityholder's securities are not subject to escrow under section 6.5, a notice from the Securityholder that the Securityholder wishes to receive share certificates or other evidence of the Securityholder's new securities.
- (2) The share certificate or other evidence of a Securityholder's new securities will be sent to the Securityholder's address on the Issuer's share register unless the Securityholder has advised the Escrow Agent in writing otherwise before the new securities are released from escrow.
- (3) If your new securities are subject to escrow, the Escrow Agent will hold your new securities in escrow on the same terms and conditions, including release dates, as applied to the escrow securities that you exchanged.
- (4) However, if the Issuer is
 - (a) an emerging issuer, the successor issuer is an established issuer, and the business combination occurs 18 months or more after the Issuer's listing date, all escrow securities will be released immediately; and
 - (b) an emerging issuer, the successor issuer is an established issuer, and the business combination occurs within 18 months after the Issuer's listing date, all escrow securities that would have been released to that time, if the Issuer was an established issuer on its listing date, will be released immediately. Remaining escrow securities will be released in equal instalments on the day that is 6 months, 12 months and 18 months after the Issuer's listing date.

PART 7 ESCROW AGENT

7.1 Escrow Agent Not Responsible for Genuineness

The Escrow Agent will not be responsible or liable in any manner whatever for the sufficiency, correctness, genuineness or validity of any escrow security deposited with it.

7.2 Escrow Agent Not Responsible for Furnished Information

The Escrow Agent will have no responsibility for seeking, obtaining, compiling, preparing or determining the accuracy of any information or document, including the representative capacity in which a party purports to act, that the Escrow Agent receives as a condition to a release from escrow or a transfer of escrow securities within escrow under this Agreement.

7.3 Escrow Agent Not Responsible after Release

The Escrow Agent will have no responsibility for escrow securities that it has released to a Securityholder or at a Securityholder's direction according to this Agreement.

7.4

Indemnification of Escrow Agent

- (1) The Issuer and each Securityholder jointly and severally:
 - (a) release, indemnify and save harmless the Escrow Agent from all liabilities, actions, costs (including legal costs, expenses and disbursements), charges, claims, demands, damages, losses and expenses resulting from or arising out of the Escrow Agent's performance of its duties under this Agreement in good faith and without negligence;
 - (b) agree not to make or bring a claim or demand, or commence any action, against the Escrow Agent in respect of its performance of its duties under this Agreement in good faith and without negligence; and
 - (c) agree to indemnify and save harmless the Escrow Agent from all costs (including legal costs, expenses and disbursements) and damages that the Escrow Agent incurs or is required by law to pay as a result of any person's claim, demand or action in connection with the Escrow Agent's performance of its duties under this Agreement in good faith and without negligence.
- (2) This indemnity survives the release of the escrow securities, the resignation or termination of the Escrow Agent and the termination of this Agreement.

7.5

Additional Provisions

- (1) The Escrow Agent will be protected in acting and relying reasonably upon any notice, direction, instruction, order, certificate, confirmation, request, waiver, consent, receipt, statutory declaration or other paper or document (collectively referred to as "**Documents**") furnished to it and signed by any person required to or entitled to execute and deliver to the Escrow Agent any such Documents in connection with this Agreement, not only as to its due execution and the validity and effectiveness of its provisions, but also as to the truth or accuracy of any information therein contained, which it in good faith believes to be genuine.
- (2) The Escrow Agent will not be bound by any notice of a claim or demand with respect thereto, or any waiver, modification, amendment, termination or rescission of this Agreement unless received by it in writing, and signed by the other Parties and approved by the securities regulators with jurisdiction as set out in section 9.6, and, if the duties or indemnification of the Escrow Agent in this Agreement are affected, unless it has given its prior written consent.
- (3) The Escrow Agent may retain such legal counsel and advisors as it may reasonably require for the purpose of discharging its duties or determining its rights under this Agreement and may rely and act upon the advice of such counsel or advisor. The Escrow Agent will give written notice to the Issuer as soon as practicable that it has retained legal counsel or other advisors. The Issuer will pay or reimburse the Escrow Agent for any reasonable fees, expenses and disbursements of such counsel or advisors.

- (4) In the event of any disagreement arising under the terms of this Agreement, the Escrow Agent will be entitled, at its option, to refuse to comply with any and all demands whatsoever until the dispute is settled either by a written agreement among the Parties or by a court of competent jurisdiction.
- (5) The Escrow Agent will have no duties or responsibilities except as expressly provided in this Agreement and will have no duty or responsibility arising under any other agreement, including any agreement referred to in this Agreement, to which the Escrow Agent is not a party.

7.6 Remuneration of Escrow Agent

The Issuer will pay the Escrow Agent reasonable remuneration for its services under this Agreement. The Issuer will reimburse the Escrow Agent for its expenses and disbursements.

7.7 Resignation of Escrow Agent

- (1) If the Escrow Agent wishes to resign as escrow agent, the Escrow Agent will give written notice to the Issuer.
- (2) If the Issuer wishes to terminate the Escrow Agent as escrow agent, the Issuer will give written notice to the Escrow Agent.
- (3) If the Escrow Agent resigns or is terminated, the Issuer will be responsible for ensuring that the Escrow Agent is replaced not later than the resignation or termination date by another escrow agent that is acceptable to the securities regulators having jurisdiction in the matter and that has accepted such appointment, which appointment will be binding on the Issuer and the Securityholders.
- (4) The resignation or termination of the Escrow Agent will be effective, and the Escrow Agent will cease to be bound by this Agreement, on the date that is 60 days after the date of receipt of the notices referred to above by the Escrow Agent or Issuer, as applicable, or on such other date as the Escrow Agent and the Issuer may agree upon (the "resignation or termination date"), provided that the resignation or termination date will not be less than 10 business days before a release date.
- (5) If the Issuer has not appointed a successor escrow agent within 60 days of the resignation or termination date, the Escrow Agent will apply, at the Issuer's expense, to a court of competent jurisdiction for the appointment of a successor escrow agent, and the duties and responsibilities of the Escrow Agent will cease immediately upon such appointment.

PART 8 NOTICES

8.1 Notice to Escrow Agent

Documents will be considered to have been delivered to the Escrow Agent on the next business day following the date of transmission, if delivered by fax, the date of delivery, if delivered by hand or by prepaid courier, or 5 business days after the date of mailing, if delivered by mail, to the following:

[Name, address, contact person, fax number]

8.2 Notice to Issuer

Documents will be considered to have been delivered to the Issuer on the next business day following the date of transmission, if delivered by fax, the date of delivery, if delivered by hand or by prepaid courier, or 5 business days after the date of mailing, if delivered by mail, to the following:

[Name, address, contact person, fax number]

8.3 Deliveries to Securityholders

Documents will be considered to have been delivered to a Securityholder on the date of delivery, if delivered by hand or by prepaid courier, or 5 business days after the date of mailing, if delivered by mail, to the address on the Issuer's share register.

The share certificates or other evidence of a Securityholder's escrow securities will be sent to the Securityholder's address on the Issuer's share register unless the Securityholder has advised the Escrow Agent in writing otherwise before the escrow securities are released from escrow.

8.4 Change of Address

- (1) The Escrow Agent may change its address for delivery by delivering notice of the change of address to the Issuer and to each Securityholder.
- (2) The Issuer may change its address for delivery by delivering notice of the change of address to the Escrow Agent and to each Securityholder.
- (3) A Securityholder may change that Securityholder's address for delivery by delivering notice of the change of address to the Issuer and to the Escrow Agent.

8.5 Postal Interruption

A party to this Agreement will not mail a Document if the party is aware of an actual or impending disruption of postal service.

PART 9 GENERAL

9.1 Interpretation - "holding securities"

When this Agreement refers to securities that a Securityholder "holds", it means that the Securityholder has direct or indirect beneficial ownership of, or control or direction over, the securities.

9.2 Further Assurances

The Parties will execute and deliver any further documents and perform any further acts necessary to carry out the intent of this Agreement.

9.3 Time

Time is of the essence of this Agreement.

9.4 Incomplete IPO

If the Issuer does not complete its IPO and has become a reporting issuer in one or more jurisdictions because it has obtained a receipt for its IPO prospectus, this Agreement will remain in effect until the securities regulators in those jurisdictions order that the Issuer has ceased to be a reporting issuer.

9.5 Jurisdiction

The securities regulator in each jurisdiction where the Issuer files its IPO prospectus has jurisdiction over this Agreement and the escrow securities.

9.6 Consent of Securities Regulators to Amendment

Except for amendments made under Part 3, the securities regulators with jurisdiction must approve any amendment to this Agreement and will apply mutual reliance principles in reviewing any amendments that are filed with them.

9.7 Governing Laws

The laws of [insert principal jurisdiction] and the applicable laws of Canada will govern this Agreement.

9.8 Counterparts

The Parties may execute this Agreement by fax and in counterparts, each of which will be considered an original and all of which will be one agreement.

9.9 Singular and Plural

Wherever a singular expression is used in this Agreement, that expression is considered as including the plural or the body corporate where required by the context.

9.10 Language

This Agreement has been drawn up in the [English/French] language at the request of all Parties. Cet acte a été rédigé en [anglais/français] à la demande de toutes les parties.

9.11 Benefit and Binding Effect

This Agreement will benefit and bind the Parties and their heirs, executors, administrators, successors and permitted assigns.

9.12 Entire Agreement

This is the entire agreement among the Parties concerning the subject matter set out in this Agreement and supersedes any and all prior understandings and agreements.

9.13 Successor to Escrow Agent

Any corporation with which the Escrow Agent may be merged or consolidated, or any corporation succeeding to the business of the Escrow Agent will be the successor of the Escrow Agent under this Agreement without any further act on its part or on the part or any of the Parties, provided that the successor is recognized as a transfer agent by the Canadian exchange the Issuer is listed on (or if the Issuer is not listed on a Canadian exchange, by any Canadian exchange) and notice is given to the securities regulators with jurisdiction.

The Parties have executed and delivered this Agreement as of the date set out above.

[Escrow Agent]

Authorized signatory

Authorized signatory

[Issuer]

Authorized signatory

Authorized signatory

If the Securityholder is an individual:

Signed, sealed and delivered by)
[Securityholder] in the presence of:)
)
_____))
Name)
)
_____))
Address)
)
_____))
)
_____))
Occupation)

[Securityholder]

If the Securityholder is not an individual:

[Securityholder]

Authorized signatory

Authorized signatory

Schedule "A" to Escrow Agreement

Securityholder

Name:

Address:

Signature:

Securities:

<i>Class or description</i>	<i>Number</i>	<i>Certificate(s) (if applicable)</i>

Schedule "B" to Escrow Agreement

Acknowledgment and Agreement to be Bound

I acknowledge that the securities listed in the attached Schedule "A" (the "escrow securities") have been or will be transferred to me and that the escrow securities are subject to an Escrow Agreement dated _____ (the "Escrow Agreement").

For other good and valuable consideration, I agree to be bound by the Escrow Agreement in respect of the escrow securities, as if I were an original signatory to the Escrow Agreement.

Dated at _____ on _____.

Where the transferee is an individual:

Signed, sealed and delivered by)	
[Transferee] in the presence of:)	
_____)	
Name)	
_____)	
Address)	_____ [Transferee]
_____)	
_____)	
Occupation)	

Where the transferee is not an individual:

[Transferee]

Authorized signatory

Authorized signatory