SERNOVA CORP.

INSIDER TRADING COMPLIANCE POLICY

Introduction

To protect investors and promote confidence in the trading of securities of public companies, provincial and territorial securities legislation applicable in Canada prohibits persons who have access to undisclosed ***"material information"***[1] from:

(i) trading in the securities of a public company before such material information has been disclosed to the public (this is generally referred to as ***"insider trading"***); and

(ii) recommending others trade in the securities of a public company or informing others of such material information before such material information has been disclosed to the public (this is generally referred to as "***tipping***").

In addition, provincial securities legislation applicable in Canada requires ***"reporting insiders"***[2] to timely report their transactions. These "***insider trading compliance requirements***" – i.e., insider trading and tipping prohibitions plus reporting insider obligations -- are intended to ensure that anyone who has access to undisclosed material information does not trade or assist others in trading to the disadvantage of the investing public generally. Insider trade reporting also provides useful information to the market generally and helps prevent illegal or otherwise improper activities.

Anyone violating the above-noted insider trading compliance requirements is subject to personal liability under applicable securities and criminal laws and could face administrative fines and criminal penalties.

Purposes of this Policy

The main purposes of this Insider Trading Compliance Policy are to:

1. promote awareness of the prohibitions against insider trading and tipping to ensure strict compliance by all directors, officers, employees and contractors of Sernova Corp. and its subsidiaries (collectively referred to herein as ***"Sernova representatives"***);

2. set out trading restrictions that apply to Sernova representatives, including circumstances where trading black-outs will be imposed, to facilitate such compliance; and

3. assist reporting insiders in understanding their obligations under insider reporting requirements of applicable securities laws and underline the importance of strict compliance.

Decisions Regarding the Disclosure of Material Information

A fundamental underlying principle of securities legislation is that the public should have the opportunity to decide whether to buy or sell securities on the basis of information equally available to all market participants. Public confidence in the securities' regulatory system is essential to maintain the integrity of the system and the continued confidence of the investment community. In connection therewith, insiders and others who may, directly or indirectly, receive or have access to undisclosed material information

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[1] ***The definition of "material information" is provided in Exhibit A to this Policy.***
[2] ***The definition of a "reporting insider" and the guidance of securities regulators when determining whether an insider is a reporting insider are provided in Exhibit B to this Policy.***

from insiders are prohibited from trading in securities of a public company or tipping prior to such information being ***"generally disclosed"***[3].

The same trading and tipping prohibitions apply to using undisclosed material information about another party that Sernova representatives may learn in the course of a proposed or pending transaction. For example, knowledge of a fundamental transaction between Sernova and another publicly traded company could constitute material information relating to such other company and thus could not be used by Sernova representatives or disclosed to any other person to allow such person to transact securities of the other publicly traded company prior to the announcement of the transaction.

If a Sernova representative believes that disclosure of material information is required, it is the responsibility of such person to promptly contact the CEO, who is responsible for determining the appropriate action to be undertaken, including whether to consult corporate legal counsel or convene a board meeting or both.

If the prompt disclosure of a material development of Sernova would be unduly detrimental to Sernova's interests (e.g., negotiations are ongoing and disclosure of a proposed transaction is premature), and it is determined that disclosure may be legally delayed, then confidentiality should be strictly maintained and such information must not be disclosed to any other Sernova representatives or any outside party (including advisors), except as ***"necessary in the course of business"***[4]. If it is unclear as to whether something is a necessary part of the course of business, the matter should be discussed with the CEO, who is responsible for determining the appropriate action to be undertaken, including whether to consult corporate legal counsel or convene a board meeting or both.

Trading Blackouts

As noted above, Sernova representatives who have access to undisclosed material information must not trade in Sernova securities or securities of another publicly-traded party (where the context demands) or divulge such information until after a public announcement disclosing such information has been made and broadly disseminated.

To facilitate compliance, the management of Sernova may from time to time determine to impose a "***trading blackout***" period. Those Sernova representatives subject to a trading blackout would be precluded from trading in Sernova securities or, if applicable, securities of another publicly-traded party (where the context demands) during the specified period. Trading blackouts may apply to all or a subset of Sernova representatives, but in any event will always apply to all directors and senior officers.

In circumstances where Sernova is contemplating a major transaction or activity that could raise Sernova's profile in the marketplace or otherwise reasonably be expected to affect the market price or value of Sernova securities significantly, the CEO may, in consultation with the Board of Directors of Sernova, determine that the disclosure of the transaction or activity, if consummated, would constitute material information and may, with the concurrence of the Board, have the CFO or Corporate Secretary advise all directors and senior officers and any other Sernova representatives involved in the major transaction or activity that a blackout has been imposed. Irrespective of whether a Sernova representative is formally given notice of a black-out, any Sernova representative with knowledge of the major transaction or activity shall be considered to be covered by the blackout.

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[3] ***The guidance of securities regulators as to when material information is considered "generally disclosed" is provided in Exhibit A hereto.***

[4] ***The guidance of securities regulators as to the circumstances when the "necessary course of business" exception may apply is provided in Exhibit A hereto.***

Although blackouts are generally not expected to be imposed in connection with the filing of financial statements, a trading prohibition will apply to Sernova representatives who do receive or have access to undisclosed material financial information during periods when financial statements are being prepared, and the results have not yet been publicly disclosed. As such, and as provided in Sernova's Share Incentive Plan, should the expiry date for an option fall within a blackout period or within 10 days thereafter, such expiry date shall be automatically extended to the date which is 10 days after the expiration of the blackout period without further act or formality.

The Corporate Secretary and CFO shall work with the CEO to ensure that all applicable Sernova representatives are advised of the trading restrictions and blackout periods in respect of Sernova's and/or another party's securities. To ensure compliance with this Policy, all Sernova representatives must, before entering into any transaction relating to the securities of Sernova, inquire with the CFO and Corporate Secretary to confirm that there are no blackouts or other applicable trading restrictions in effect.

Restrictions on Certain Types of Trading

All Sernova representatives are prohibited, at any time, from (i) entering into a sale of Sernova securities that they do not own or have a right to own (a speculative practice, called "*selling short*", which is done in the belief that the price of a stock is going to fall and the seller will then be able to cover the sale by repurchasing the stock at a lower price); (ii) equity monetization transactions that is the equivalent of "*selling short*"; and (iii) selling a "call option" or buying a "put option" in respect of any Sernova securities (as such persons could profit from Sernova's stock price falling). Sernova representatives are not prohibited from selling a "put option" or purchasing a "call option", where they would only profit if the value of Sernova securities increases (meaning there would be no direct conflict with the interest of Sernova or its shareholders). As "puts" and "calls" constitute Sernova securities, both are subject to the usual restrictions on trading with knowledge of undisclosed material information.

Unless such arrangement is part of a plan made in compliance with all applicable securities laws, a Sernova representative must not enter into any arrangements which might result in a transaction in Sernova related securities at a time when they are not permitted to trade (e.g., an automated trade execution arrangement in respect of Sernova related securities or an arrangement that could give rise to trade of Sernova shares in connection with a margin call).

Reporting Insider Requirements

Trading of securities of Sernova, owned beneficially, either directly or indirectly, or over which a reporting insider has control of or direction over, must be timely reported via the System of Electronic Disclosure by Insiders ("*SEDI*"). The concept of "reporting insider" is discussed in Exhibit B to this Policy but if you are uncertain whether you are a reporting insider of Sernova, please contact the CFO.

If you are a reporting insider, below are examples of interests in securities of Sernova that, whether they are held or acquired or disposed of or otherwise altered, must be timely reported on SEDI:

- Direct beneficial ownership is when the insider holds securities in their name or holds securities through a nominee such as a broker, or through a book-based depository.

- Indirect beneficial ownership is when the insider is a beneficial owner of securities, but such securities are held through a family trust, a third person, an affiliate or other legal entity such as a RRSP, or a holding company that the insider controls. An insider will be considered to have an indirect interest in securities held in a trust where the insider (i) has or shares a beneficial interest in securities held by the trust and has or shares investment power over such securities or (ii) has legal

ownership of securities in the trust and has or shares voting or investment power over such securities held in trust.

- Having control or direction over securities is when the insider, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares voting power, which includes the power to vote, or direct the voting of, securities, or investment power, which includes the power to buy or sell, or to direct the purchase or sale of such securities. This would generally include securities held by a spouse or children who live in the insider's household and securities held by estates or trusts over which the insider exercises control.

- Interest in, or right or obligation associated with, a related financial instrument involving a security which includes, but is not limited to, forward contracts, future contracts or stock purchase contracts or similar contracts involving securities of Sernova and stock-based compensation instruments.

- Changes to a reporting insider's economic exposure to the issuer by means of entering, materially amending or terminating any agreement, arrangement or understanding which involves, directly or indirectly, a Sernova security or a related financial instrument.

Reporting insiders may use an agent to file insider reports on SEDI, or the reporting insider must register directly as a SEDI user. There are resources available to help insiders complete insider reports on SEDI, including at the SEDI website, which may be accessed at: https://www.sedi.ca. For matters other than routine reporting, reporting insiders are encouraged to seek independent legal advice.

For routine reporting, the basic requirements are as follows:

- *Initial reporting insider report*: Securities regulations stipulate that within ten (10) calendar days of becoming a reporting insider, a reporting insider must file an initial insider report via SEDI. Reporting insiders should be aware that the obligation to file insider trading reports is the responsibility of the individual. Sernova does not file insider reports on behalf of reporting insiders unless the reporting insider has specifically instructed the Corporate Secretary to file on their behalf. Although "nil" reports are not required, as most reporting insiders participate in Sernova's option plan, an initial report typically must be filed, detailing "all holdings" of Sernova securities.

- *Subsequent reporting insider reports*: Subsequent reporting insider reports must be filed within five (5) calendar days of the transaction date (not the settlement date). This includes transactions concerning the grant or exercise of stock options, or a change in the nature of ownership (e.g. transferring shares to a spouse, rolling into an RRSP, etc.).

Sernova, therefore, requires the following:

- Reporting insiders are required to file their insider report via SEDI directly, through the Company's agent or through their agent.
- Reporting insiders that wish to file insider report through the Company's agent have to provide the agent with the information relative to the insider report no later than the end of business day on the day of the transaction.
- Reporting insiders that file their insider report via SEDI directly or through their agent are required to provide Sernova with a copy of their filing no later than four (4) calendar days following the date of the transaction.

Fines and other sanctions may be imposed on reporting insiders for non-compliance. For example, the Ontario Securities Commission will apply late filing fees of $50 per report per day up to a maximum of $1,000 per reporting insider for each issuer within one financial year. Also, the names of late filers are published weekly on the internet by the Alberta Securities Commission. The Canadian Securities Administrators have further indicated that where a reporting insider fails to file an insider report in a timely manner or files an insider report that contains information that is materially misleading, such actions may additionally result in the issuance of a cease trade order prohibiting the reporting insider from trading or acquiring securities for a period of time and may, in appropriate circumstances, initiate enforcement proceedings against such reporting insider.

Reporting insiders should also be aware that repeated non-compliance may have negative consequences to Sernova, for example, in the context of a prospectus review or a continuous disclosure review.

As such, Sernova requires to be informed of any correspondence pertaining to non-compliance and late filing fees with regards to the Company’s securities no later than five (5) calendar days following the receipt of such correspondence.

Compliance with this Policy

All Sernova representatives from time to time, will be provided with a copy of this Policy. It is a condition of their appointment or employment that each of these individuals at all times abides by the standards, requirements and procedures set out in this Policy unless a written authorization to proceed otherwise is received from the Board.

Any Sernova representatives who fails to satisfy the insider trading compliance requirements may be exposed to civil liability to third parties, and administrative sanctions by securities regulators, including claims or fines based on the amount of the profit made or loss avoided, in addition to general embarrassment and damage to their reputation. Further, violations of this Policy or relevant laws may result in disciplinary action up to and including termination. Sernova may refer violations of this Policy or relevant laws to the appropriate regulatory authorities.

EXHIBIT A
DEFINITIONS AND INTERPRETATION

"**Material Information**" consists of both "material facts" and "material changes", which are defined terms in applicable provincial securities legislation.

A "**material fact**" means a fact that significantly affects, or would reasonably be expected to have a significant effect on, the market price or value of the securities of an issuer.

A "**material change**" means a change in the business, operations or capital of the issuer that would reasonably be expected to have a significant effect on the market price or value of any of the securities of the issuer and includes a decision to implement such a change if such a decision is made by the Board or by senior management of the issuer who believe that confirmation of the decision by the Board is probable.

Excerpts from National Policy 51-201 Disclosure Standards

The following excerpts from National Policy 51-201 Disclosure Standards provide the guidance and views of the Canadian Securities Administrators in the interpretation of (a) the "***necessary course of business***" exception from the tipping prohibition and (b) when material information is considered "***generally disclosed***".

3.3 ***Necessary Course of Business****:*

(1) The "tipping" provision allows a company to make a selective disclosure if doing so is in the "***necessary course of business***". The question of whether a particular disclosure is being made in the necessary course of business is a mixed question of law and fact that must be determined in each case and in light of the policy reasons for the tipping provisions. Tipping is prohibited so that everyone in the market has equal access to, and opportunity to act upon, material information. Insider trading and tipping prohibitions are designed to ensure that anyone who has access to material undisclosed information does not trade or assist others in trading to the disadvantage of investors generally.

(2) Different interpretations are being applied, in practice, to the phrase "necessary course of business". As a result, we believe interpretive guidance in this regard is necessary. The "necessary course of business" exception exists so as not to unduly interfere with a company's ordinary business activities. For example, the "necessary course of business" exception would generally cover communications with:

> (a) vendors, suppliers, or strategic partners on issues such as research and development, sales and marketing, and supply contracts;
> (b) employees, officers, and board members;
> (c) lenders, legal counsel, auditors, underwriters, and financial and other professional advisors to the company;
> (d) parties to negotiations;
> (e) labour unions and industry associations;
> (f) government agencies and non-governmental regulators; and
> (g) credit rating agencies (provided that the information is disclosed for the purpose of assisting the agency to formulate a credit rating and the agency's ratings generally are or will be publicly available).

(3) Securities legislation prohibits any person or company that is proposing to make a take-over bid, become a party to a reorganization, amalgamation, merger, arrangement or similar business combination

or acquire a substantial portion of a company's property from informing anyone of material information that has not been generally disclosed. An exception to this prohibition is provided where the material information is given in the "necessary course of business" to effect the take-over bid, business combination or acquisition.

(4) Disclosures by a company in connection with a private placement may be in the "necessary course of business" for companies to raise financing. The ability to raise financing is important. We recognize that select communications between the parties to a private placement of material information may be necessary to effect the private placement. Communications to controlling shareholders may also, in certain circumstances, be considered in the "necessary course of business." Nevertheless, we believe that in these situations, material information that is provided to private places and controlling shareholders should be generally disclosed at the earliest opportunity.

(5) The "necessary course of business" exception would not generally permit a company to make a selective disclosure of material corporate information to an analyst, institutional investor or other market professional.

(6) There may be situations where an analyst will be "brought over the wall" to act as an advisor in a specific transaction involving a reporting issuer they would normally issue research about. In these situations, the analyst becomes a "person in a special relationship" with the reporting issuer and is subject to the prohibitions against tipping and insider trading. This means that the analyst is prohibited from further informing anyone of material undisclosed information they learn in this advisory capacity, including issuing any research recommendations or reports.

(7) We draw a distinction between disclosures to credit rating agencies, which would generally be regarded as being in the "necessary course of business," and disclosures to analysts, which would not be. This distinction is based on differences in the nature of the business they are engaged in and in how they use the information. The credit ratings generated by rating agencies are either confidential (disclosed only to the company seeking the rating) or directed at a wide public audience. Generally, the objective of the rating process is a widely available publication of the rating. The reports generated by analysts are targeted, first and foremost, to an analyst's firm's clients. Also, rating agencies are not in the business of trading in the securities they rate. Sell-side analysts are typically employed by investment dealers that are in the business of buying and selling, underwriting, and advising with respect to securities. Further, securities legislation requires specified ratings from designated rating organizations in certain circumstances. Consequently, ratings form part of the statutory framework of provincial securities legislation in a way that analysts' reports do not.

(8) When companies communicate with the media, they should be mindful not to selectively disclose material information that has not been generally disclosed. The "necessary course of business" exception would not generally permit a company to make a selective disclosure of material undisclosed information to the media. However, we are not suggesting that companies should stop speaking to the media. We recognize that the media can play an important role in informing and educating the marketplace.

3.4 ***Necessary Course of Business Disclosures and Confidentiality:***

(1) If a company discloses material information under the "necessary course of business" exception, it should make sure those receiving the information understand that they cannot pass the information onto anyone else (other than in the necessary course of business), or trade on the information, until it has been generally disclosed.

(2) We understand that companies sometimes disclose material information pursuant to a confidentiality agreement with the recipient, so that the recipient is prevented from further informing anyone of the material information. Obtaining a confidentiality agreement in these circumstances can be a good practice and may help to safeguard the confidentiality of the information. However, there is no exception to the prohibition against "tipping" for disclosures made pursuant to a confidentiality agreement. The only exception is for disclosures made in the "necessary course of business." Consequently, there must still be a determination, prior to disclosure supported by a confidentiality agreement, that such disclosure is in the "necessary course of business."

3.5 ***Generally Disclosed:***

(1) The tipping prohibition does not require a company to release all material information to the marketplace. Instead, it prohibits a company from disclosing nonpublic material information to anyone (other than in the "necessary course of business") before the company generally discloses the information to the marketplace.

(2) Securities legislation does not define the term "generally disclosed". Insider trading court decisions state that information has been generally disclosed if: (a) the information has been disseminated in a manner calculated to effectively reach the marketplace; and (b) public investors have been given a reasonable amount of time to analyze the information.

(3) Except for "material changes," which must be disclosed by news release, securities legislation does not generally require a particular method of disclosure to satisfy the "generally disclosed" requirement. In determining whether material information has been generally disclosed, we will consider all of the relevant facts and circumstances, including the company's traditional practices for publicly disclosing information and how broadly investors and the investment community follow the company. We recognize that the effectiveness of disclosure methods varies between companies. Whatever disclosure method is used to release information, we encourage consistency in a company's disclosure practices.

(4) Companies may satisfy the "generally disclosed" requirement by using one or a combination of the following disclosure methods:

(a) News releases distributed through a widely circulated news or wire service.

(b) Announcements made through press conferences or conference calls that interested members of the public may attend or listen to either in person, by telephone, or by other electronic transmission (including the Internet). A company needs to provide the public with appropriate notice of the conference or call by news release. The notice should include the date and time of the conference or call, a general description of what is to be discussed, and the means of accessing the conference or call. The notice should also indicate for how long the company will make a transcript or replay of the call available over its Web site.

(5) We recognize that many companies prefer news release disclosure as the safest means of satisfying the "generally disclosed" requirement. In section 6.6 of the Policy, we recommend as a "best practice" a disclosure model centered around news release disclosure of material information, followed by an open and accessible conference call to discuss the information contained in the news release. However, we believe that alternative methods may also be appropriate. We believe it is important to preserve for companies the flexibility to develop a disclosure model that suits their circumstances and disseminates material information in the manner best calculated to effectively reach the marketplace.

(6) Posting information to a company's Web site will not, by itself, be likely to satisfy the "generally disclosed" requirement. Investors' access to the Internet is not yet sufficiently widespread such that a

Web site posting alone would be a means of dissemination “calculated to effectively reach the marketplace.” Further, effective dissemination involves the “pushing out” of information into the marketplace. Notwithstanding the ability of some issuers’ Web sites to alert interested parties to new postings, Web sites by and large do not push information out into the marketplace. Instead, investors would be required to seek out this information from a company’s Web site. Active and effective dissemination of information is central to satisfying the “generally disclosed” requirement.

(7) We support the use of technology in the disclosure process and believe that companies’ Web sites can be an important and useful tool in improving communications to the marketplace. As technology evolves and as more investors gain access to the Internet, it may be that postings to certain companies’ Web sites alone could satisfy the “generally disclosed” requirement. At such time, we will revisit this policy statement and reconsider the guidance provided on this issue. In the meantime, we strongly encourage companies to utilize their Web sites to improve investor access to corporate information.

EXHIBIT B

EXCERPT FROM NATIONAL INSTRUMENT 55-104 *INSIDER REPORTING REQUIREMENTS AND EXEMPTIONS AND COMPANION POLICY THERETO*

Excerpt From National Instrument 55-104 *Insider Reporting Requirements and Exemptions*

National Instrument 55-104 *Insider Reporting Requirements and Exemptions* (the "***Instrument***") sets out the principal insider reporting requirements and exemptions for insiders of reporting issuers. The following is an excerpt of the definition of the term "***reporting insider***" contained in the Instrument:

….

"***reporting insider***" means an insider of a reporting issuer if the insider is

(a) the CEO, CFO or COO of the reporting issuer, of a significant shareholder of the reporting issuer or of a major subsidiary of the reporting issuer;

(b) a director of the reporting issuer, of a significant shareholder of the reporting issuer or of a major subsidiary of the reporting issuer;

(c) a person or company responsible for a principal business unit, division or function of the reporting issuer;

(d) a significant shareholder of the reporting issuer;

(e) a significant shareholder based on post-conversion beneficial ownership of the reporting issuer's securities and the CEO, CFO, COO and every director of the significant shareholder based on post-conversion beneficial ownership;

(f) a management company that provides significant management or administrative services to the reporting issuer or a major subsidiary of the reporting issuer, every director of the management company, every CEO, CFO and COO of the management company, and every significant shareholder of the management company;

(g) an individual performing functions similar to the functions performed by any of the insiders described in paragraphs (a) to (f);

(h) the reporting issuer itself, if it has purchased, redeemed or otherwise acquired a security of its own issue, for so long as it continues to hold that security; or

(i) any other insider that

> (i) in the ordinary course receives or has access to information as to material facts or material changes concerning the reporting issuer before the material facts or material changes are generally disclosed; and
>
> (ii) directly or indirectly exercises, or has the ability to exercise, significant power or influence over the business, operations, capital or development of the reporting issuer;

<u>Excerpt From Companion Policy to National Instrument 55-104 *Insider Reporting Requirements and Exemptions*</u>

The purpose of the Companion Policy to the Instrument is to help insiders understand how the Canadian Securities Administrators interpret or apply certain provisions of the Instrument. The following is an excerpt from the Companion Policy:

….

PART 3 PRIMARY INSIDER REPORTING REQUIREMENT

3.1 Concept of reporting insider

(1) **General –** Subsection 1.1(1) of the Instrument contains the definition of “reporting insider”. The definition represents a principles-based approach to determining which insiders should file insider reports and enumerates a list of insiders whom we think generally satisfy both of the following criteria:

(i) the insider in the ordinary course receives or has access to information as to material facts or material changes concerning the reporting issuer before the material facts or material changes are generally disclosed; and

(ii) the insider directly or indirectly, exercises, or has the ability to exercise, significant power or influence over the business, operations, capital or development of the reporting issuer.

In addition to enumerating a list of insiders, the definition also includes, in paragraph (i), a “basket” provision that explicitly states these two criteria. The basket provision articulates the fundamental principle that an insider who satisfies the criteria of routine access to material undisclosed information concerning a reporting issuer and significant influence over the reporting issuer should file insider reports.

(2) **Interpreting the basket criteria –** The CSA consider that insiders who come within the enumerated list of positions in the definition of reporting insider will generally satisfy the criteria of routine access to material undisclosed information and significant influence over the reporting issuer. We recognize that this may not always be the case for certain positions in the definition and have therefore included an exemption in section 9.3 of the Instrument for directors and officers of significant shareholders based on lack of routine access to material undisclosed information.

If an insider does not fall within any of the enumerated positions, the insider should consider whether the insider has access to material undisclosed information and has influence over the reporting issuer that is reasonably commensurate with that of one or more of the enumerated positions. If the insider satisfies both of these criteria, the insider will fall within the basket provision of the reporting insider definition.

(3) **Meaning of significant power or influence** – In determining whether an insider satisfies the significant influence criterion, the insider should consider whether the insider exercises, or has the ability to exercise, significant influence over the business, operations, capital or development of the issuer that is reasonably comparable to that exercised by one or more of the enumerated positions in the definition.

Certain positions or relationships with the issuer may give rise to reporting insider status in the case of certain issuers but not others, depending on the importance of the position or relationship to the business, operations, capital or development of the particular issuer. Similarly, the importance of a position or relationship to an issuer may change over time. For example, the directors and the CEO, CFO and COO

of a 20 percent subsidiary (i.e. not a “major subsidiary”, as defined in the Instrument) who are not reporting insiders for any other reason may be reporting insiders prior to and during a significant business acquisition or reorganization, or a market moving announcement.

(4) **Exercise of reasonable judgment** – The determination of whether an insider is a reporting insider based on the criteria in the basket provision will generally be a question of reasonable judgment. The CSA expect insiders to make reasonable determinations after careful consideration of all relevant facts but recognize that a reasonable determination may not always be a correct determination. The CSA recommend that insiders consult with their issuers when making this determination since confirming that the insider’s conclusion is consistent with the issuer’s view may help establish that a determination was reasonable. Insiders may also wish to seek professional advice or consider the reporting status of individuals in similar positions with the issuer or other similarly situated issuers.

3.2 Meaning of beneficial ownership

(1) **General –** The term “beneficial ownership” is not defined in securities legislation. Accordingly, beneficial ownership must be determined in accordance with the ordinary principles of property and trust law of a local jurisdiction. In Québec, due to the fact that the concept of beneficial ownership does not exist in civil law, the meaning of beneficial ownership has the meaning ascribed to it in section 1.4 of Regulation 14-501Q. The concept of beneficial ownership in Québec legislation is often used in conjunction with the concept of control and direction, which allows for a similar interpretation of the concept of common law beneficial ownership in most jurisdictions.

(2) **Deemed beneficial ownership** – Although securities legislation does not define beneficial ownership, securities legislation in certain jurisdictions may deem a person to beneficially own securities in certain circumstances. For example, in some jurisdictions, a person is deemed to beneficially own securities that are beneficially owned by a company controlled by that person or by an affiliate of such company.

(3) **Post-conversion beneficial ownership** – Under the Instrument, a person has “post-conversion beneficial ownership” of a security, including an unissued security, if the person is the beneficial owner of a security convertible into the security within 60 days. For example, a person who owns special warrants convertible at any time and without payment of additional consideration into common shares will be considered to have post-conversion beneficial ownership of the underlying common shares. Under the Instrument, a person who has post-conversion beneficial ownership of securities may in certain circumstances be designated or determined to be an insider and may be a reporting insider. For example, if a person owns 9.9% of an issuer’s common shares and then acquires special warrants convertible into an additional 5% of the issuer’s common shares, the person will be designated or determined to be an insider under section 1.2 of the Instrument and will be a reporting insider under subsection 1.1(1) of the Instrument. The concept of post-conversion beneficial ownership of the underlying securities into which securities are convertible within 60 days is consistent with similar provisions for determining beneficial ownership of securities for the purposes of the early warning requirements in section 1.8 of National Instrument 62-104 *Take-Over Bids and Issuer Bids*.

(4) **Beneficial ownership of securities held in a trust –** Under common law trust law, legal ownership is commonly distinguished from beneficial ownership. A trustee is generally considered to be the legal owner of the trust property; a beneficiary, the beneficial owner. Under the Québec civil law, a trust is governed by the Québec Civil Code.

A reporting insider who has a beneficial interest in securities held in a trust may have or share beneficial ownership of the securities for insider reporting purposes, depending on the particular facts of the arrangement and upon the governing law of the trust, whether common law or civil law. We will

generally consider a person to have or share beneficial ownership of securities held in a trust if the person has or shares

(a) a beneficial interest in the securities held in the trust and has or shares voting or investment power over the securities held in the trust; or

(b) legal ownership of the securities held in the trust and has or shares voting or investment power over the securities held in the trust.

(5) **Disclaimers of beneficial ownership** – The CSA generally will not regard a purported disclaimer of a beneficial interest in, or beneficial ownership of, securities as being effective for the purposes of determining beneficial ownership under securities legislation unless such disclaimer is irrevocable and has been generally disclosed to the public.

(6) **When ownership passes** – Securities legislation of certain local jurisdictions provides that ownership is deemed to pass at the time an offer to sell is accepted by the purchaser or the purchaser's agent or an offer to buy is accepted by the vendor or the vendor's agent. The CSA is of the view that, for the purposes of the insider reporting requirement beneficial ownership passes at the same time.

3.3 Meaning of control or direction

(1) The term "control or direction" is not defined in Canadian securities legislation except in Québec, where the *Securities Act* (Québec), in sections 90, 91 and 92, defines the concept of control and deems situations where a person has control over securities. For purposes of the Instrument, a person will generally have control or direction over securities if the person, directly or indirectly, through any contract, arrangement, understanding or relationship or otherwise has or shares (a) voting power, which includes the power to vote, or to direct the voting of, such securities and/or (b) investment power, which includes the power to acquire or dispose, or to direct the acquisition or disposition of such securities.

(2) A reporting insider may have or share control or direction over securities through a power of attorney, a grant of limited trading authority, or a management agreement. This would also include a situation where a reporting insider acts as a trustee for an estate (or in Québec as a liquidator) or other trust in which securities of the reporting insider's issuer are included within the assets of the trust. This may also be the case if a spouse (or any other person related to the reporting insider) owns the securities or acts as trustee, but the reporting insider has or shares control or direction over the securities held in trust. In addition, this may be the case where the reporting insider is an officer or director of another issuer that owns securities of the reporting insider's issuer and the reporting insider is able to influence the investment or voting decisions of the issuer.