



# **LISTING REGULATIONS**

## **SECTION VI**

### **- DERIVATIVE WARRANTS**

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## SECTION VI

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**CHAPTER 4****QUALIFICATIONS FOR LISTING****PRELIMINARY**

4.1 This Chapter sets out the basic conditions which have to be met as a pre-requisite to the listing of derivative warrants. The list regulations apply to every method by which securities may be brought to listing and to both new applicants and listed issuers, except where otherwise stated. The Exchange will list any type of derivative warrants which meet these conditions, including derivative warrant programmes, and derivative warrants which are linked directly or indirectly to specific equity or debt securities, indices, currencies, interest rates, swap rates, exchange rates and certain commodities such as oil, gold and silver. It should be noted that:-

- (1) these requirements are not exhaustive and the Exchange may impose additional requirements in a particular case; and
- (2) the Exchange retains an absolute discretion to accept or reject applications for listing, and that compliance with the relevant conditions may not of itself ensure an applicant's suitability for listing.

4.2 Where application for listing is made in respect of any class of security:-

- (1) if none of the securities of that class are already listed, the application must relate to all securities of that class, whether already issued or proposed to be issued; or
- (2) if some of the securities of that class are already listed, the application must relate to all further securities of that class which are proposed to be issued and the application must be made prior to the issue of the securities.

**GENERAL**

4.3 Where application is made to list a security which is convertible into another security the Exchange must be satisfied that investors will be able to obtain the necessary information to form a reasoned opinion regarding the value of the underlying security. For example, this requirement is met where the underlying security is listed on the Exchange or on another stock exchange which is recognised for this purpose by the Exchange (see Appendix 5).

4.4 If the issuer's securities are not listed on the Exchange, both the issuer and its business must, in the opinion of the Exchange, be suitable for listing.

4.5 A new applicant must EITHER:

(1) be subject to regulation by a securities or futures regulator recognized for this purpose by the Exchange; OR

(2) have its obligations, pursuant to the issuance of the derivative warrants, unconditionally and irrevocably guaranteed by an entity which meets the requirements of paragraph (1); OR

(3) satisfy the Exchange that it is of suitable financial standing and that it has the requisite experience and expertise to manage its obligations pursuant to the issuance of the derivative warrants; OR

(4) restrict investment in the listed derivative warrants to Qualified Investors in a manner acceptable to the Exchange. **This means, *inter alia*, that the derivative warrants may only be marketed to Qualified Investors and may only be traded on the Exchange between Qualified Investors..**

4.6 The provisions of Regulation 4.5 will not apply where the applicant has secured the performance of its obligations by depositing assets underlying the derivative warrants with a trustee or other independent representative who holds the deposited assets for the benefit of the derivative warrant holders.

4.7 If the issue is guaranteed, the guarantee must be in conformity with the relevant laws of the jurisdiction where the guarantor is incorporated or otherwise established and be in conformity with the guarantor's constitutional documents.

4.8 Where the derivative warrants relate to equity securities, the equity securities must normally represent minority interests in, and must not confer legal or management control of the companies issuing them, save with the specific approval of the Exchange and subject to such conditions as the Exchange may impose.

4.9 The derivative warrants must be eligible for deposit in a clearing and settlement system recognized for this purpose by the Exchange.

4.10 The derivative warrants for which listing is sought must be fully negotiable and freely transferable (at least between Qualified Investors, in the case of restricted marketings).

4.11 The issuer must appoint a warrant agent and/or, where appropriate, a transfer agent/registrar in such place as the Exchange may agree for so long as its derivative warrants are listed.

4.12 The issuer may be a special purpose vehicle and, in the case of a derivative warrant programme, may be listed prior to the issuance of any tranche or series under the programme.

4.13 In the case of a derivative warrant programme, the initial prospectus prepared pursuant

to Chapter 5, together with any subsequent pricing prospectus relating to a specific tranche or series issuance, when read together, must provide an investor with the full terms and conditions of the issue.

4.14 A new applicant must normally have produced independently audited annual accounts for the two (2) financial years preceding the application for listing. In exceptional cases the Exchange may accept a shorter period. This requirement does not apply to a special purpose vehicle which has been incorporated for less than two (2) years.

**CHAPTER 5****APPLICATION PROCEDURES AND REQUIREMENTS****PRELIMINARY**

5.1 This Chapter sets out the procedures and requirements for applications for the listing of derivative warrants whether by new applicants or by listed issuers except where otherwise stated.

5.2 These requirements are not exhaustive and an applicant must satisfy any additional requirements and supply such further documents and information that the Exchange may require in any particular case or class of case.

5.3 Every document submitted to the Exchange must be in the English language or accompanied by a certified English translation.

**APPLICATION PROCEDURES**

5.4

(1) Subject to Regulation 5.5, each application for listing shall consist of the following:-

(i) a formal letter of application signed by a duly authorised officer of the applicant and the sponsor, if there is a sponsor, and which complies with the requirements set out in Part A of Appendix 1;

(ii) the various supporting documents specified in Regulation 5.6;

(iii) a prospectus that complies with the contents requirements set out in Regulation 5.9 and Appendix 2; and

(iv) the appropriate fees (see Appendix 4).

(2) The issuer must take all reasonable care to ensure that any statement, document or other information which is made available to the Exchange as part of the listing application is not misleading, false or deceptive and does not omit anything likely to affect the import of such statement, document or other information.

5.5

(1) In the case of a derivative warrant programme, the initial prospectus applicable to the programme as a whole must include the general terms and conditions applicable to all of the

securities that may be issued and listed under the programme and must cover the maximum nominal amount of securities which may be issued and listed during the life of the programme. If the Exchange approves the application, it will grant an “in principle” approval to list all securities which may be issued under the programme, subject to the applicant complying with the requirements of paragraph (3).

(3) Each application to confirm the listing of a subsequent issue under a derivative warrant programme that has been approved by the Exchange shall consist of a term sheet which complies with the requirements of Part B of Appendix 1 and payment of the appropriate fees (see Appendix 4). The issuer must attach a copy of any supplementary prospectus/pricing supplement which is being issued in support of the tranche or series. Information in a prospectus which is attached to the letter may be incorporated by reference

(4) Any application to list securities pursuant to a derivative warrant programme in excess of the maximums stated in the original prospectus must include the submission of a new prospectus which complies with the requirements of Part A of Appendix 2.

## **SUPPORTING DOCUMENTS**

5.6 In support of its letter of application, the applicant must lodge with the Exchange at the same time the following documents:-

- (1) in the case of a new applicant, a certified copy of its certificate of incorporation or equivalent document;
- (2) in the case of a new applicant, a certified copy of its constitution and, in all cases, all amendments made to the constitution since it was last filed with the Exchange;
- (3) in the case of a new applicant, the audited annual financial statements for each of the two (2) completed financial years of the issuer or group immediately preceding the issue of the prospectus or since incorporation, if shorter;
- (4) a certified copy of:-
  - (i) the resolution of the applicant in a general meeting, if such is legally required, authorising the issue of all securities for which listing is sought; and
  - (ii) the resolution(s) of the board of directors (or equivalent governing body) authorising the issue and allotment of such securities, the making of the application and the signing of the Issuer’s Undertaking and approving and authorising the issue of the prospectus;
- (5) an Issuer’s Undertaking, unless previously supplied in connection with a previous application, in the form set out in Part A of Appendix 3, duly signed for and on behalf of the

applicant;

(6) a copy of any temporary document of title and any definitive document of title to be used in respect of the securities to be listed;

(7) a certified copy of every material letter, report, statement of adjustments, valuation, contract, resolution and other documents referred to in the prospectus (including a letter from any auditor whose audit report is set out in the prospectus confirming that the auditor has given its consent to the issue of the prospectus with the audit report included in the form and context in which it is included);

(8) if applicable, a copy of the trust deed or other document securing the assets underlying the derivative warrants must be supplied unless this has previously been supplied; and

(9) such other documentation as may be required by the Exchange.

## PROSPECTUS

5.7 The prospectus must contain all the specific items of information set out in Regulation 5.9 and Appendix 2. The prospectus may not be dated and issued in final form until the Exchange has confirmed that it has no further comments on it.

5.8 The draft prospectus should be submitted in sufficient time for the Exchange to review it before the proposed publication date, but should not be submitted until it includes the required financial information about the issuer. Every draft prospectus submitted must be dated and marked in the margin so as to indicate where the particular requirements of Appendix 2 have been met. Subsequent redrafts must be blacklined against the version previously reviewed by the Exchange to clearly identify any changes.

5.9 In addition to the detailed requirements set out in Appendix 2 the prospectus must:

(1) as an overriding principle, contain such particulars and information which, according to the particular nature of the issuer and the securities for which listing is sought, is necessary to enable an investor to make an informed assessment of the activities, assets and liabilities, financial position, management and prospects of the issuer and of its profits and losses and of the rights attaching to such securities; and

(2) carry on the first page of the document (excluding the cover), in a prominent position and in bold type, the following disclaimer:

**“The Bermuda Stock Exchange takes no responsibility for the contents of this document, makes no representations as to its accuracy or completeness and expressly disclaims any liability whatsoever for any loss howsoever arising from or in reliance**

**upon any part of the contents of this document”.**

### **DISTRIBUTIONS**

5.10 If the method of listing involves a distribution of new securities, prior to the commencement of dealings, the issuer must supply the Exchange with a letter confirming that the distribution has been successful and, if requested by the Exchange, a list containing the name and address and number of securities received by each person under the distribution.

5.11 If the method of listing involves a distribution of securities to the public in Bermuda then the issuer must ensure that a notice, which states where members of the public may obtain a copy of the prospectus free of charge, is published in a newspaper in Bermuda at the start of the distribution process.

## CHAPTER 6

## ISSUER'S CONTINUING OBLIGATIONS

## PRELIMINARY

## 6.1

(1) This Chapter sets out the continuing obligations which each issuer must undertake to comply with as a condition of being granted, and of maintaining, a listing.

(2) The issuer must take all reasonable care to ensure that any statement, document or other information which is notified to or made available to the Exchange is not misleading, false or deceptive and does not omit anything likely to affect the import of such statement, document or other information.

## NOTIFICATIONS

*Corporate disclosure policy*

6.2 Generally and apart from compliance with all the specific requirements of this Chapter, the issuer shall keep the Exchange and holders of its listed derivative warrants informed without delay, by way of public announcements and/or circulars, of any information relating to the issuer or the group or the derivative warrants that:-

- (1) may reasonably be expected to affect materially the financial position of the issuer or the group or the market activity in and the price of the listed derivative warrants;
- (2) is necessary to avoid the establishment of a false market in the securities; and
- (3) might reasonably be expected materially to significantly effect the issuer's or group's ability to meet its commitments.

6.3 Where another entity provides a guarantee for the derivative warrants or where the derivative warrants are convertible, exchangeable or carry subscription rights which are exercisable into the securities of another entity, copies of the audited annual accounts of that other entity must also be so available and the notification must also state this.

6.4 If the issuer's securities are also listed on another stock exchange, the issuer must ensure that copies of all documents required to be filed and information required to be notified to the other stock exchange is simultaneously made available to the Exchange.

**FINANCIAL STATEMENTS*****Preparation and distribution of financial statements***

6.5 The issuer shall prepare and send to the trustee or warrant agent audited annual accounts within six months of the end of the financial period to which they relate. A copy of any interim financial statements published by the issuer must also be sent to the trustee or warrant agent once prepared. At the same time that the issuer delivers any financial statements to the trustees or warrant agent it shall send to the Exchange ten (10) copies of the statement, for dissemination by the Exchange.

6.6 The Exchange may waive the applicability of Regulation 6.5 where:

- (1) the issuer benefits from an unconditional and irrevocable guarantee by another company; or
- (2) the issuer is a wholly owned subsidiary of a listed issuer or a company listed on another stock exchange which is recognised for this purpose by the Exchange (see Appendix 5) and the issuer's financial statements are included in the consolidated financial statements of its listed holding company.

**OTHER DISCLOSURES*****Changes in the terms of derivative warrants***

6.7 Any change in the rights attaching to any class of listed derivative warrants and any change in the rights attaching to any asset into which any listed derivative warrants are convertible or exchangeable must be disclosed to the Exchange without delay, for dissemination by the Exchange.

***Purchase, redemption or cancellation***

6.8 Any purchase, redemption or cancellation by the issuer, or any member of the group, of its listed derivative warrants must be disclosed to the Exchange, for dissemination by the Exchange, without delay after such purchase, redemption or cancellation. The announcement should also state the number of the relevant derivative warrants outstanding after such operations. For this purpose, purchases of derivative warrants may be aggregated and an announcement should be made when, in aggregate, ten percent (10%) of the outstanding amount of derivative warrants has been acquired. If the issuer or any member of the group purchases further amounts of that security an announcement should be made whenever an additional five percent (5%) in aggregate has been acquired.

6.9 The issuer must provide the Exchange with ten (10) clear business days notice of any

expiration or maturity of the listed derivative warrants.

***After board meetings***

6.10 The issuer shall inform the Exchange without delay after approval by or on behalf of the board, for dissemination by the Exchange, of:-

- (1) any proposed change in the capital structure of the issuer; and
- (2) any decision to change the general character or nature of the business of the issuer or group.

***Changes***

6.11 The issuer shall inform the Exchange without delay, for dissemination by the Exchange, of any decision made in regard to:-

- (1) any proposed alteration of the issuer's constitution;
- (2) any changes in its board of directors;
- (3) any changes in its secretary, auditors, trustee, warrant agent, transfer agent/registrars or registered address.

***Exercise of Rights***

6.12 The issuer must ensure that adequate information is at all times made available to derivative warrant holders to enable them to exercise their rights. In particular, the issuer must provide a notice to the Exchange for dissemination of any meeting of holders of its listed derivative warrants.

***Winding-up and liquidation***

6.13

(1) The issuer shall inform the Exchange without delay, for dissemination by the Exchange, on the happening of any of the following events as soon as the same shall come to the attention of the issuer:-

- (i) the presentation of any winding-up petition, or equivalent application in the country of incorporation or other establishment, or the making of any winding-up order or the appointment of a provisional liquidator in respect of the issuer, its holding company or any major subsidiary and, if the derivative warrants carry rights of conversion or exchange into or subscription for the

share capital of another company, or are guaranteed by another company, that other company;

(ii) the passing of any resolution by the issuer, or any other company referred to in paragraph (i), that it be wound-up by way of members' or creditors' voluntary winding-up or equivalent;

(iii) the entry into possession of or the sale by any mortgagee of a portion of the issuer's assets which in aggregate value represents an amount in excess of twenty percent (20%) of the book value of the existing net assets of the group; or

(iv) the making of any judgement, declaration or order by any court or tribunal of competent jurisdiction whether on appeal or at first instance, which may adversely affect the issuer's enjoyment of any portion of its assets which in aggregate value represents an amount in excess of twenty percent (20%) of the book value of the consolidated net tangible assets of the group.

(2) For the purposes of paragraph (1) a "major subsidiary" means a subsidiary representing twenty percent (20%) or more of the consolidated net tangible assets or pre-tax trading profits of the group.

## **REVIEW AND DISTRIBUTION OF OTHER DOCUMENTS**

6.14 In addition to the specific requirements set out in these Listing Regulations, the issuer shall submit to the Exchange, for review, copies of drafts, before they are issued, of any announcements or advertisements the subject matter of which involves a change in or relates to or affects arrangements regarding trading in its listed securities on the Exchange (including a suspension of trading).

6.15 The issuer shall send ten (10) copies to the Exchange of all circulars to holders of its listed derivative warrants, at the same time as they are issued, for dissemination by the Exchange.

6.16 The issuer shall send to the Exchange ten (10) copies of all resolutions of the holders of its listed derivative warrants, as soon as possible after they are made, and ten (10) copies of notices of meetings, forms of proxy, notices by advertisement to holders of its derivative warrants, reports, announcements or other similar documents at the same time as they are issued.

## **GENERAL**

### ***Warrant agent***

6.17 The issuer must appoint and maintain a warrant agent and/or, where appropriate, a transfer agent/registrars in such place as the Exchange may agree, until the date on which no

listed derivative warrants are outstanding.

***Equality of treatment***

6.18 The issuer shall ensure equality of treatment for all holders of listed securities of the same class.

***Response to enquiries***

6.19 The issuer shall respond promptly to any enquiries made of the issuer by the Exchange concerning unusual movements in the trading, bid or offer price or trading volume of its listed securities with reference to its historic pattern of trading, or any other matters, by giving such relevant information as is available to the issuer or, if appropriate, by issuing a statement to the effect that the issuer is not aware of any matter or development that is or may be relevant to the unusual price movement or trading volume of its listed securities.

***Additional obligations***

6.21 The Exchange shall be entitled to require the publication of further information by, and impose additional continuing obligations on the issuer, where it considers that circumstances so justify, but will allow representations by the issuer before imposing any additional obligations on it which are not imposed on listed issuers generally.

***Insider dealing***

6.22 Insiders must not trade on the basis of unpublished price sensitive information.

## APPENDIX 1

## FORM OF LETTER OF APPLICATION

**PART A: NEW APPLICANTS AND SUBSEQUENT ISSUES (OTHER THAN SUBSEQUENT ISSUES PURSUANT TO A DERIVATIVE WARRANT PROGRAMME)**

A formal letter of application shall, in substantially the order given below, cover the following information. Information in a prospectus which is enclosed with the application letter may be incorporated by reference.

**1. General**

- (1) the name of the applicant and the date of incorporation or other establishment;
- (2) the country of incorporation or other establishment and the address of the principal registered office;
- (3) a formal request for the listing of the securities in respect of which application is made;
- (4) a description of the securities for which listing is sought, specifying the nominal amount of the securities;
- (5) the proposed method by which the securities are to be brought to listing and details of any proposed distribution of the securities; and
- (6) the name of any other stock exchange on which any securities of the applicant are already listed and/or traded.

**2. Litigation**

Particulars of any litigation or claims of material importance made against any member of the group in the last five (5) years or which is pending or threatened against any member of the group, or an appropriate negative statement.

Particulars of any litigation or court proceedings in the last five (5) years involving a director of the applicant or which is pending or threatened against any such director, or an appropriate negative statement.

**3. Sponsors, bankers, etc.**

- (1) The names and addresses of the applicant's sponsor (where relevant), financial and legal advisers, stockbroker, principal bankers, authorised representatives, registrar/transfer agent, trustees and warrant agent; and
- (2) the name, address and professional qualification of the applicant's auditors.

#### **4. Statement of non-compliance**

A statement of any requirements of the Listing Regulations which cannot be met by the applicant and detailed arguments to support any request for a waiver or modification of the normal requirements.

#### **5. Declaration**

A declaration, stated to be to the best of the applicant's knowledge, information and belief:-

- (1) that, save as specified in the application letter, all the qualifications for listing set out in Chapter 4 of Section VI of the Listing Regulations have, in so far as applicable and required to be met and fulfilled prior to application, been met or fulfilled in relation to the issuer and the securities of the issuer the subject of the application;
- (2) that all information required to be included in the prospectus pursuant to Regulation 5.9 and Appendix 2 will be included; and
- (3) that there are no other facts bearing on the applicant's application for listing which, in the applicant's opinion, should be disclosed to the Exchange.

### **PART B: TERM SHEET FOR SUBSEQUENT ISSUES PURSUANT TO A DERIVATIVE WARRANT PROGRAMME**

Whenever an issuer makes a subsequent issue of securities pursuant to a derivative warrant programme which has been approved by the Exchange, the issuer shall submit to the Exchange a formal application letter covering the following information, in substantially the order given below:-

- (1) The name of the issuer;
- (2) A full description of the securities for which listing is sought, specifying the issue price and the number of securities and including full details of the nature of any asset underlying the derivative warrants;
- (3) A description of the derivative warrants programme under which the tranche or series is being issued;

- (4) The proposed date of issuance or details of the offer period;
- (5) Information concerning the method of listing;
- (6) Information concerning the registrar/transfer agent and the warrant agent;
- (7) A statement of any requirements of the Listing Regulations which have not been met by the applicant and detailed arguments to support any request for a waiver or modification of the normal requirements;
- (8) The intended first day of dealings; and
- (9) The amount of fees enclosed (see Appendix 4).

## APPENDIX 2

## CONTENTS OF PROSPECTUSES

*General information about the issuer, its advisers and the prospectus*

1. The full name and address of the registered office of the issuer.
2. A statement in bold type as follows:-  
  
**“This prospectus includes particulars given in compliance with the Listing Regulations of the Bermuda Stock Exchange for the purpose of giving information with regard to the issuer. The issuer accepts full responsibility for the accuracy of the information contained in this prospectus and confirms, having made all reasonable enquiries, that to the best of its knowledge and belief there are no other facts the omission of which would make any statement herein misleading.”**
3. The names and addresses of the issuer’s principal bankers, authorised representatives, stockbroker, legal and financial advisers, trustees, warrant agent and registrar/transfer agent.
4. The name, address and professional qualifications of the issuer’s auditors.
5. The date and place of incorporation and, if different, the legal domicile of the issuer.
6. A statement as to the general nature of the issuer’s business including details of the main categories of products sold/or service performed.
7. Where the prospectus includes a statement purporting to be made by an expert, a statement:-
  - (1) specifying the qualifications of such expert and whether such expert has any shareholding in any member of the group or the right (whether legally enforceable or not) to subscribe for or to nominate persons to subscribe for securities in any member of the group, and, if so, a full description thereof;
  - (2) that the expert has given and has not withdrawn his written consent to the issue of the prospectus with the expert’s statement included in the form and context in which it is included; and
  - (3) of the date on which the expert’s statement was made and whether or not it was made by the expert for incorporation in the prospectus.
8. The name of the arranger(s) and other distributor(s) of the issue.

9. If the issuer is regulated, the name of the regulatory authority which is responsible for the regulation of the issuer's business.

***Information about the securities for which listing is sought and the terms and conditions of their issue and distribution***

10. A statement that application has been made to the Exchange for the listing of the securities.

11. The total number of securities to be issued.

12. The estimated amount of the expenses of the issue and of the application for listing and by whom the same are payable.

13. If known, the date on which dealings will commence.

14. An estimate of the net proceeds of the issue and a statement as to how such proceeds are intended to be applied.

15. A description of or the text of the terms and conditions of the issue containing:-

(1) the status of the securities (i.e. whether they are secured or unsecured or subordinate obligations of the issuer);

(2) a summary of the rights conferred upon holders and particulars of the security;

(3) details of the issue price or offer price of the securities including details of the currency of the issue and the method of payment of the issue (or if different, offer) price;

(4) the procedure and time limits for delivery of the issue to subscribers, including whether there will be any temporary documents of title, and if so, the procedure for the delivery and exchange thereof;

(5) details of the arrangements for the early redemption of the issue, including procedures to be adopted;

(6) the names and addresses of any registrar/transfer agent(s) for the derivative warrants in Bermuda, or such other place as the Exchange may agree to;

(7) details of the arrangements for transfer of the securities and any restrictions on the free transferability of the derivative warrants and if the securities are only transferable in limits or integral multiples thereof, the number of securities per unit;

- (8) details of the expiration or exercise date, if applicable, to the derivative warrants.
16. The following legal information:-
- (1) an indication of the resolutions, authorisations and approvals by virtue of which derivative warrants have been or will be created and/or issued and of the number of derivative warrants which have been or will be created and/or issued, if predetermined;
- (2) if applicable, the nature and scope of the guarantees, securities and commitments intended to ensure the obligations of the issuer to the derivative warrant holders and an indication of the places where the public may have access to copies of such guarantees, securities and commitments;
- (3) details of the warrant agent or of any other representative for the derivative warrants holders as a whole, the name and function or description and head office of such representative of the derivative warrants holders, its principal duties, right and obligations, the conditions under which the representative may be replaced together with an indication of where the public may inspect copies of the documents detailing how the representative is to act. Also include details of any indemnity or restriction of liability applicable to the warrant agent or any other representative of the derivative warrant holders;
- (4) a description of any subordination of the issue to other securities of the issuer already created or to be created; and
- (5) the series designation if applicable.

#### ***Exercise of Derivative Warrants***

17. The entitlement of the derivative warrant holders on the exercise of the derivative warrants.
18. The period during which the derivative warrants may be exercised, or where the derivative warrants may only be exercised on specified dates, the exercise dates.
19. The procedure by which the warrants may be exercised.
20. Details of any provisions giving the issuer or the derivative warrant holder an option to elect for cash settlement or delivery of the underlying assets, including any notice provisions where the issuer or the derivative warrant holder make such an election.
21. The method of calculation of the amount payable on the exercise of the derivative warrants, including any adjustment provisions.

22. Details of any transfer taxes, stamp duty, levies, registration charges or other expenses which may be payable or charged to the derivative warrant holder on the exercise of the derivative warrants.

***General information about the group's activities***

If the issuer is a member of a group include:

23. The general nature of the business of the group including details of the main categories of products sold and/or services performed.

24. A brief description of that group covering the issuer's position within that group and, if a subsidiary, the names of and the number of shares held (directly or indirectly) by each holding company of the issuer.

25. In regard to every material subsidiary, particulars of the name, date and country of incorporation, general nature of business, issued capital and the proportion held or intended to be held by the issuer.

***Financial information about the issuer and the prospects of the issuer***

26. A comparative table showing the profit and loss accounts and balance sheets in respect of the two (2) financial years immediately preceding the issue of the prospectus, or since establishment if shorter (including any explanatory notes and a statement as to the accounting standards applied) and the auditor's report accompanying the latest financial statements. If more than nine months have elapsed since the date to which the latest audited financial statements of the issuer were made up, an interim financial statement covering at least the first six months should normally be included in the prospectus or appended to it. If the interim financial statement is unaudited, this fact must be stated.

27. The financial statements must be shown on a consolidated basis unless the issuer has only published its financial statements on another basis. However, the issuer's own financial statements should be included if they provide significant additional information.

28. Where a profit forecast appears in the prospectus the principal assumptions, including commercial assumptions, upon which it is based, must be stated, the accounting policies and calculations for the forecast must be examined and reported on by the auditors and their report must be set out. The auditors and the sponsor, in the case of a new applicant, must report in addition that they have satisfied themselves that the forecast has been stated by the directors after due and careful enquiry, and such reports must be set out.

29. A statement by the issuer of any material adverse change in the financial or trading

position of the issuer or of the group since the end of the period reported on in the latest audited financial statements, or an appropriate negative statement.

30. Particulars of any litigation or claims of material importance pending or threatened against the issuer or any member of the group, or an appropriate negative statement.

***Information about the underlying assets to which the derivative warrants relate***

31. Where the derivative warrants relate to equity securities include a statement relating to:

- (1) the name of the issuer of the equity securities;
- (2) its registered office;
- (3) its date and place of incorporation;
- (4) a description of the securities; and
- (5) the name of any stock exchange or other regulated, regularly operating open market on which the securities are listed and/or traded.

32. Where the derivative warrants relate to debt securities include a statement relating to:

- (1) the name of the borrower;
- (2) its registered office;
- (3) its date and place of incorporation;
- (4) a brief description of the debt securities;
- (5) the name of the stock exchange on which the relevant securities are listed or a place where financial and other information on the issuer and the relevant securities is publicly available; and
- (6) where the derivative warrants and/or the issuer of the derivative warrants and/or the issuer's short term or long term credit has been rated by any of the major public rating agencies, the ratings and the name of the rating agency responsible for such rating.

33. Where the derivative warrants relates to indices include a statement relating to:

- (1) a description of the index;

- (2) the name of the person responsible for calculating and disseminating information with respect of the index;
- (3) a description of the method of calculation of the value of the index;
- (4) the frequency with which the index is calculated and published and the method of publication; and
- (5) a summary of the provisions which apply in the event of the modification or discontinuance of the index.

34. Where the derivative warrants are linked to a basket of securities or indices include a statement relating to:

- (1) a description of the composition of the basket;
- (2) for each security or index comprising ten percent (10%), or more of the basket, the information required by paragraphs 31 to 33 herein, where applicable;
- (3) the method of calculation of the value of the basket; and
- (4) the circumstances in which the composition of the basket may change, and details of the provisions relating to such an adjustment.

***Information about the issuer's management***

35. The full name, residential or business address and description (being his qualifications or area of expertise or responsibility) for every director or proposed director.

36. The full name and professional qualification, if any, of the secretary of the issuer.

37. The address of the registered office; and if different, the head office and transfer office.

38. A statement showing the interest (distinguishing between beneficial and non-beneficial interests) of each director of the issuer in the securities of the issuer or any subsidiary of the issuer.

39. A statement showing the name, so far as is known of any director of the issuer, and of each entity, other than a director of the issuer, who is, directly or indirectly, interested in five percent (5%) or more of the nominal value of any class of share capital carrying rights to vote in all circumstances at general meetings of any member of the group and the amount of each person's interest in such securities, together with particulars of any options in respect of such capital, or, if there are no such interests, an appropriate negative statement.

40. Full particulars of any contract or arrangement subsisting at the date of the prospectus in which a director of the issuer is materially interested and which is significant in relation to the business of the group, or an appropriate negative statement.

***Contracts pertaining to the issue***

41. The dates of and parties to all documents pertaining to the issue entered into by any member of the group within the two (2) years immediately preceding the issue of the prospectus, together with a summary of the principal contents of such contracts.

***Risk Factors***

42. All material risks associated with investing in the derivative warrants, including any risks associated with the nature of the securities and reliance upon the creditworthiness of the issuer (where applicable) and the risk of limited liquidity in the securities in any secondary market that may develop.

***General information***

43. Details of where annual and any interim reports are available and how often interim reports are published.

44. The name(s) of the stock exchange(s) on which a listing has been, is being or will be sought for the derivative warrants.

45. The names, addresses and descriptions of the persons underwriting or guaranteeing the issue for the issuer and where not all of the issue is underwritten or guaranteed, a statement of the portion not covered.

46. If a public or private offer or placing has been or is being made simultaneously on the markets of two or more countries and if a tranche has been or is being reserved for certain of these, details of any such tranche.

47. Details of the method of payment of delivery of the underlying assets following the exercise or redemption of the derivative warrants.

48. Details of any taxation on payments to derivative warrant holders which is withheld at source in the country of origin.

49. Details of any other material terms and conditions, (for example modifications which would apply in the event of a market disruption or force majeure) and the method by which the terms and conditions of the derivative warrants may be varied.

*Documents for inspection*

50. Details of a reasonable period of time (being not less than ten (10) business days) during which, and a place in Hamilton, Bermuda (or such other place as the Exchange may agree) at which, the following documents (or copies thereof), where applicable, may be inspected, without charge:-

- (1) the constitution of the issuer;
- (2) any warrant agreement, warrant instrument, guarantee or other material contract pertaining to the issue;
- (3) all reports, letters or other documents, balance sheets, valuations and statements by any expert any part of which is extracted or referred to in the prospectus;
- (4) the audited financial statements of the issuer or, in the case of a group which has previously produced consolidated financial statements, the consolidated audited financial statements of the issuer and its subsidiaries for each of the two (2) financial years immediately preceding the issue of the prospectus, or since establishment, if shorter;
- (5) the final form of the prospectus; and
- (6) in the case of securities issued pursuant to a derivative warrant programme, where such securities are outstanding, the prospectus applicable to the programme together with any supplements (including proxy supplements) issued since the last Exchange approved prospectus.

## APPENDIX 3

## FORMS

**PART A: ISSUER'S UNDERTAKING****Form of Issuer's Undertaking required to be entered into by an issuer in support of its application for a listing**

TO: The Bermuda Stock Exchange  
 FROM: [ ]

In consideration of The Bermuda Stock Exchange ("the Exchange") granting our application for listing, we HEREBY ACKNOWLEDGE that our securities shall remain listed only during the pleasure of the Exchange, and that we HEREBY UNDERTAKE AND AGREE to comply with the Listing Regulations in force from time to time as issued by the Exchange and in particular undertake and agree to comply with the continuing obligations of the Exchange as set out in Chapter 6 of Section VI the Listing Regulations of the Exchange.

Dated this            day of            200 .

Signature:            Name:

Signed for and on behalf of the issuer as authorised thereto by resolution of the board of directors dated:

**PART B: DIRECTOR'S DECLARATION AND UNDERTAKING****Form of declaration and undertaking required to be entered into by each director of the issuer**

TO: The Bermuda Stock Exchange

## DECLARATION

1. State:

- (1) present surname and any former surname(s);
- (2) present forename(s) and any former forenames(s);

- (3) date of birth;
  - (4) residential address;
  - (5) nationality and former nationality, if any; and
  - (6) professional qualifications, if any.
2. Are you a director, shadow director or alternate director of any other company a trustee of any trust or a partner in any partnership which is publicly listed or traded? If so, state the name of any such company, trust or partnership, the nature of business where this is not indicated in the title, and date you became a director, trustee or partner.
3. Have you at any time been adjudged bankrupt or sequestered in any jurisdiction?
- If so, state the court by which you were adjudged bankrupt and, if discharged, the date and conditions on which you were granted your discharge.
4. Have you at any time been a party to a deed of arrangement or made any other form of composition with your creditors?
5. Are there any unsatisfied judgements outstanding against you? If so, give full particulars.
6. Has any company been put into compulsory liquidation or had an administrator or an administrative or other receiver appointed during the period when you were (or within the preceding twelve (12) months had been) one of its directors, shadow directors or alternate directors?
- Has any partnership or trust been put into compulsory liquidation or been sequestered during the period when you were (or within the preceding twelve (12) months had been) one of its partners or trustees?
- If so, in each case state the name, nature of business, date of commencement of winding up, administration or receivership and the amount involved together with an indication of the outcome or current position.
7. Have you at any time or has a company of which you were a director, shadow director or alternate director at the time of the offence been convicted in any jurisdiction of any criminal offence or an offence under legislation relating to companies. All such convictions must be disclosed even though they may now be "spent convictions".
- If so, state the court by which you were or the company was convicted, the date of conviction and full particulars of the offence and the penalty imposed.

8. Have you, in connection with the formation or management of any company, partnership or unincorporated institution been adjudged by a court in any jurisdiction civilly liable for any fraud, misfeasance or other misconduct by you towards it or towards any of its members? If so, give full particulars.

9. Have you ever been disqualified by a court from acting as a director of a company, or from acting in the management or conduct of the affairs of any company? If so, give full particulars.

10. Have you, in any jurisdiction, been refused admission to or renewal of membership of any professional body, trade society, institution or association, or stock exchange or been censured or disciplined or had membership withdrawn by any such body to which you belong or belonged or have you held a practising certificate subject to conditions? If so, give full particulars.

I.....director of.....(state name of company).....(the "Issuer") declare that to the best of my knowledge and belief (having taken all reasonable care to ensure that such is the case) the answers to all the above questions are true and I hereby give my authority (save where expressly provided otherwise) to the Exchange to disclose any of the foregoing particulars given by me to the sponsor of any company of which I am director and/or such regulatory bodies as the Exchange may, in its absolute discretion think fit.

UNDERTAKING

I hereby undertake that in the exercise of my powers and duties as such a director, I shall:-

- (1) comply to the best of my ability with the Listing Regulations of the Bermuda Stock Exchange from time to time in force [and disclose to the Issuer all information which the Issuer needs in order to comply with its obligations to disclose directors' share interests];
- (2) use my best endeavours to procure that any alternate of mine shall so comply; and
- (3) use my best endeavours to ensure that the Issuer complies with such Listing Regulations from time to time in force.

Dated this    day of 200    .

Signature:\_\_\_\_\_ Name:\_\_\_\_\_

**PART C: SPONSOR'S DECLARATION**

TO: The Bermuda Stock Exchange .....200.....

Dear Sir,

We,..... being sponsor to  
 ..... {Name of issuer} hereby  
 declare that:-

**1. General**

(1) to the best of our knowledge and belief, having made due and careful enquiry of the issuer and its advisers, the issuer has satisfied all relevant conditions for listing and other relevant requirements of the Listing Regulations;

(2) to the best of our knowledge and belief, having made due and careful enquiry of the issuer and its advisers:

(i) all the documents required by the Listing Regulations to be included in the application for listing have been supplied to the Exchange;

(ii) all other relevant requirements of the Listing Regulations have been complied with; and

(iii) there are no matters other than those disclosed in the prospectus or otherwise in writing to the Exchange which should be taken into account by the Exchange in considering the suitability for listing of the securities for which application is being made;

(3) the directors of the issuer (or equivalent governing body)

(i) have had explained to them by us or other appropriate professional advisers the nature of their responsibilities and obligations as directors of a listed company under the Listing Regulations; and

(ii) in particular, understand what is required of them to enable holders of the issuer's listed securities and the public to appraise the position of the issuer and avoid the creation of a false market in its securities once they are listed;

(4) we have obtained written confirmation from the issuer that the working capital available to the group is sufficient for its present requirements and we are satisfied that the confirmation has been given after due and careful enquiry by the issuer and that the persons or institutions

providing finance have stated in writing that the relevant financing facilities exist; and

(5) we are satisfied that any profit forecast or estimate in the prospectus has been made after due and careful enquiry by the issuer; and

**2. Acknowledgement of Exchange’s disciplinary power**

we acknowledge that if the Exchange considers that we have been in breach of our responsibilities under the Listing Regulations or this declaration, then the Exchange may censure us and/or refuse to allow us to sponsor further issues by removing our firm from the list of approved sponsors and/or suspend our [trading membership/listing sponsor status] under the [Trading Membership/Listing Sponsor] Regulations and that the Exchange may publicise the fact that it has done so and the reasons for its actions.

Yours faithfully,

Signed.....

Name:.....

For and on behalf of {sponsor’s name}

## APPENDIX 4

## LISTING FEES AND LEVIES

**1. Initial fee**

(1) In the case of an issue of derivative warrants by a new applicant an initial, non-refundable listing fee of \$2,500 shall be payable on the application for listing.

(2) A new applicant shall pay the initial fee, in advance, at the same time as it submits its formal letter of application in accordance with Chapter 5.

**2. Subsequent issue fee**

In the case of a subsequent issue of derivative warrants by a listed issuer a subsequent, non-refundable listing fee of \$2,500 shall be payable on the application for listing.

(2) In the case of a subsequent issue of derivative warrants pursuant to a derivative warrant programme approved by the Exchange a subsequent, non-refundable listing fee of \$500 shall be payable on the application for listing of each issue.

(3) The subsequent issue fee shall be payable by the issuer, in advance, at the same time as it submits its formal letter of application or term sheet (as appropriate) in accordance with Chapter 5.

**3. Annual fee**

(1) In addition to the initial listing fee, an annual fee of \$1,000 shall be payable in advance on each class of derivative warrants which are listed on the Exchange (\$500 in respect of each subsequent issue of derivative warrants pursuant to a derivative warrant programme approved by the Exchange).

(2) The annual fee in respect of the first year shall be payable at the same time as the issuer submits its formal letter of application in accordance with Chapter 5 and thereafter shall be payable in advance within seven (7) business days of receiving an invoice from the Exchange.

## APPENDIX 5

## LIST OF RECOGNISED STOCK EXCHANGES

- All exchanges licensed to operate in any EU Member State
- All exchanges approved as a National Market by the United States SEC
- All exchanges which are Full or Associate Members of the FIBV
- American Stock Exchange
- Australian Stock Exchange
- Boston Stock Exchange
- Chicago Board of Trade
- Chicago Board Options Exchange
- Deutsche Borse
- EUREX
- EURONEXT
- European Association of Securities Dealers Automated Quotation (EASDAQ)
- Frankfurt Stock Exchange
- Hong Kong Exchanges and Clearing
- Irish Stock Exchange
- London International Financial Futures and Options Exchange
- London Metals Exchange
- London Stock Exchange
- London Stock Exchange – Alternative Investment Market (AIM)
- Luxembourg Stock Exchange
- Milan Stock Exchange
- Montreal Stock Exchange
- National Stock Exchange of India
- New York Stock Exchange
- New Zealand Stock Exchange
- OM Stockholm Stock Exchange
- Osaka Securities Exchange
- Oslo Stock Exchange
- SBF - Paris Bourse
- Singapore Stock Exchange
- Swiss Stock Exchange
- Taiwan Stock Exchange
- Tokyo Stock Exchange
- Toronto Stock Exchange
- CDNX
- Johannesburg Stock Exchange
- Kuala Lumpur Stock Exchange
- Mumbai Stock Exchange
- NeurMark

- Stock Exchange of Thailand

Note 1: This list is deemed to include any successors stock exchange to the ones included herein.

Note 2: This list of recognised exchanges may be amended or added to by the Exchange pursuant to Regulation 1.7