

1.1.9 Agreement among the OSC, the BCSC, the ASC, and the AMF, with respect to the administration and application of surplus funds generated by operations of SEDAR

**AGREEMENT AMONG
THE ONTARIO SECURITIES COMMISSION (OSC),
THE BRITISH COLUMBIA
SECURITIES COMMISSION (BCSC),
THE ALBERTA SECURITIES COMMISSION (ASC),
AND THE AUTORITÉ DES
MARCHÉS FINANCIERS (AMF),
WITH RESPECT TO
THE ADMINISTRATION AND APPLICATION
OF SURPLUS FUNDS
GENERATED BY OPERATIONS OF THE
SYSTEM FOR ELECTRONIC DOCUMENT ANALYSIS
AND RETRIEVAL (SEDAR)**

The OSC, BCSC, ASC and AMF have entered into an agreement dated as of May 19, 2005. This agreement (the SEDAR Surplus Application Agreement) is being published today in the Bulletin in accordance with section 143.10 of the *Securities Act*. This agreement will become effective with respect to the OSC, subject to the approval of the responsible Minister, within 60 days after this publication.

The SEDAR Surplus Application Agreement sets out the agreement of the parties relating to the administration and application of surplus funds generated by SEDAR operations.

Questions may be referred to:

Rossana Di Lieto
Senior Legal Counsel
General Counsel's Office
(416) 593-8106
rdilieto@osc.gov.on.ca

Krista Martin Gorelle
Senior Legal Counsel
General Counsel's Office
(416) 593-3689
kgorelle@osc.gov.on.ca

SURPLUS APPLICATION AGREEMENT

This Surplus Application Agreement made as of the 19th day of May, 2005 among British Columbia Securities Commission (“**BCSC**”) and Alberta Securities Commission (“**ASC**”) and Ontario Securities Commission (“**OSC**”) and l’Autorité des marchés financiers (“**AMF**”) (hereinafter jointly called the “**Principal Administrators**”).

WHEREAS each one of the Principal Administrators have executed the SEDAR Operations Agreement dated August 1, 2004 (the “**SEDAR Agreement**”) to replace the Letter of Accord regarding the System for Electronic Document Analysis and Retrieval, dated April 28, 1995 (the “**LOA**”);

WHEREAS the LOA was terminated effective July 31, 2004;

WHEREAS a surplus of **two million, eight hundred ninety thousand and two hundred eighty-two dollars and eighty-four cents (\$2,890,282.84)** was accumulated from the SEDAR operations under the LOA up until October 31, 2003, and an additional surplus of **two million eight hundred ninety three thousand and nineteen dollars and sixty cents [\$2,893,019.60]** was accumulated from the SEDAR operations during the period that extended between October 31, 2003 to July 31, 2004 (the aggregate thereof to be known as the “**Initial Surplus**”);

WHEREAS the amounts representing the Initial Surplus were paid by CDS Inc. to the OSC in trust;

WHEREAS the SEDAR Agreement foresees the possibility of a surplus being accumulated in any one operating year (“**Annual Surplus**”);

WHEREAS the Principal Administrators hereby wish to establish how the Initial Surplus and any subsequent Annual Surplus shall be administered and applied;

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The OSC will deposit the Initial Surplus and any Annual Surplus (the “**Funds**”) into a segregated account (an “**Account**”) held with a bank listed in Schedule I or II to the Bank Act (Canada) or a trust company registered under applicable Ontario or federal legislation. The Account may be a deposit/chequing account or an investment account.
2. The OSC will invest the Funds in accordance with an investment policy, the prime consideration of which is the protection of principal and the selection of maturities appropriate to anticipated cash flow needs.
3. The OSC may, in its discretion, retain the services of an investment advisor to assist in the investment and management of the Funds.
4. Any interest or other amounts earned on the Funds, net of the OSC’s out-of-pocket expenses, will be applied to the Account.
5. The Funds may only be paid out from the Account if the pay-out:
 - (a) is in accordance with the terms of this Agreement; and
 - (b) has been authorized in writing by a duly authorized representative of each one of the Principal Administrators
6. For greater certainty, section 5 above does not apply to a transfer from one type of account to another.
7. The Principal Administrators agree that the Initial Surplus and any Annual Surplus shall be used towards one or more of the following actions:
 - a) the development or enhancement of SEDAR, as defined in the SEDAR Agreement;
 - b) the development or enhancement of SEDI, as defined in the SEDAR Agreement;
 - c) to permit the reduction in the SEDAR Fee Schedule, as defined in the SEDAR Agreement;
 - d) the application towards the previous year’s Shortfall, in accordance with the provisions of section 9.2.5 of the SEDAR Agreement.
8. Each of the Principal Administrators warrants and represents that the execution, delivery and performance of this Agreement (i) are within its powers, (ii) have been duly authorized by all necessary proceedings, and (iii) do not and will not contravene or constitute a default under, and are not and will not conflict with any judgment, decree or order, or any contract, agreement, or other undertaking or covenant applicable to such Principal Administrators.
9. The term of this Agreement shall correspond to the term of the SEDAR Agreement.
10. This Agreement shall be governed by and construed in accordance with the laws in force in the province of Ontario and the federal laws of Canada applicable therein. The Principal Administrators hereby irrevocably attorn to the jurisdiction of courts of the province of Ontario or

the Federal Court of Canada sitting in such province.

11. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, including any fax counterpart, and it shall not be necessary when making proof of this Agreement to account for more than one counterpart.
12. In order to have a coordinated effective date, in Alberta, British Columbia and Ontario, this agreement comes into effect on the date it is approved by the Minister in Ontario. In Québec, this agreement comes into effect on the date the AMF executes the agreement.

IN WITNESS WHEREOF, the duly authorized signatories of the parties have signed this Agreement this May 19, 2005.

BRITISH COLUMBIA SECURITIES COMMISSION

By: "Martin Eady"

ALBERTA SECURITIES COMMISSION

By: "Peter Valentine"

By: "David C. Linder"

ONTARIO SECURITIES COMMISSION

By: "Charlie Macfarlane"

L'AUTORITÉ DES MARCHÉS FINANCIERS

By: "Jean St-Gelais"

For purposes of the application of *An Act respecting the Ministère du Conseil exécutif* (R.S.Q., c. M-30),

Ministre responsable des Affaires intergouvernementales canadiennes, de la Francophonie canadienne, de l'Accord sur le commerce intérieur, de la Réforme des institutions démocratiques et de l'Accès à l'information

By: "Camille Horth"