

POLICY 4.4

INCENTIVE STOCK OPTIONS

Scope of Policy

Incentive stock options are a means of rewarding optionees for future services provided to the Issuer. They are not intended as a substitute for salaries or wages, or as a means of compensation for past services rendered.

This Policy sets out the Exchange's requirements for incentive stock options.

The main headings in this Policy are:

1. Introduction
2. General Requirements
3. Stock Option Plans
4. Required Documentation for Stock Option Plans
5. Amending Stock Option Agreements/Plans

1. Introduction

1.1 Application

The Exchange requirements in this Policy apply to:

- (a) an Issuer listed on the Exchange which proposes to grant stock options to its Directors, Employees and Consultants; and
- (b) an unlisted Company planning to apply, or in the process of applying, for listing on the Exchange which proposes to grant stock options to its Directors, Employees, and Consultants that will remain outstanding after listing.

A statutory exemption must be available for the issuance of securities for all issuances of stock options to Consultants, failing which, a discretionary exemption from the appropriate Securities Commission must be obtained.

1.2 Interpretation

In this Policy:

“Consultant” means, in relation to an Issuer, an individual or Consultant Company, other than an Employee or a Director of the Issuer, that:

- (a) is engaged to provide on a ongoing bona fide basis, consulting, technical, management or other services to the Issuer or to an Affiliate of the Issuer, other than services provided in relation to a Distribution;
- (b) provides the services under a written contract between the Issuer or the Affiliate and the individual or the Consultant Company;
- (c) in the reasonable opinion of the Issuer, spends or will spend a significant amount of time and attention on the affairs and business of the Issuer or an Affiliate of the Issuer; and
- (d) has a relationship with the Issuer or an Affiliate of the Issuer that enables the individual to be knowledgeable about the business and affairs of the Issuer.

“Consultant Company” means for an individual consultant, a company or partnership of which the individual is an employee, shareholder or partner.

“Directors” means directors, senior officers and Management Company Employees of an Issuer, or of an unlisted Company seeking a listing on the Exchange, or directors, senior officers and Management Company Employees of an Issuer’s or an unlisted Company’s subsidiaries to whom stock options can be granted in reliance on a Prospectus exemption under applicable Securities Laws.

“Employee” means:

- (a) an individual who is considered an employee of the Issuer or its subsidiary under the *Income Tax Act* (Canada) (and for whom income tax, employment insurance and CPP deductions must be made at source);
- (b) an individual who works full-time for an Issuer or its subsidiary providing services normally provided by an employee and who is subject to the same control and direction by the Issuer over the details and methods of work as an employee of the Issuer, but for whom income tax deductions are not made at source; or

- (c) an individual who works for an Issuer or its subsidiary on a continuing and regular basis for a minimum amount of time per week (the number of hours should be disclosed in the submission) providing services normally provided by an employee and who is subject to the same control and direction by the Issuer over the details and methods of work as an employee of the Issuer, but for whom income tax deductions are not made at source.

“Management Company Employee” means an individual employed by a Person providing management services to the Issuer, which are required for the ongoing successful operation of the business enterprise of the Issuer, but excluding a Person engaged in Investor Relations Activities.

“Optionee” means the recipient of an incentive stock option.

1.3 Types of Stock Option Plans

- (a) All Issuers other than CPCs must implement a stock option plan. The Issuer may have either:
 - (i) a “rolling” stock option plan reserving a maximum of 10% of the issued shares of the Issuer at the time of the stock option grant, with no vesting provisions and the ability to grant stock options without a hold period, provided the grant is made at the Market Price rather than the Discounted Market Price; or
 - (ii) a fixed number stock option plan reserving a specified number of shares, up to a maximum of 20% of the Issuer’s issued shares as at the date of Shareholder approval, with no vesting provisions and the ability to grant stock options without a hold period, provided the grant is made at the Market Price rather than the Discounted Market Price.
- (b) Subject to Exchange acceptance, where the Issuer is in the process of undertaking a transaction involving the issuance of securities such that the number of issued shares on the date of Shareholder approval does not reflect the number of issued shares of the Issuer upon completion of the transaction, the Issuer may base the amount of shares reserved for issuance under the plan on the issued shares of the Issuer on a post transaction basis, subject to completion of the transaction.

2. General Requirements

2.1 Limitations on Stock Option Grants to Individuals

The aggregate number of Listed Shares that may be reserved for issuance pursuant to a stock option plan, or as incentive stock options must not exceed:

5% of the issued shares of the Issuer (determined at the date the option was granted) to any one individual in a 12 month period, unless the Issuer obtained the requisite disinterested shareholder approval pursuant to section 2.10.

2.2 Consultants

The number of options granted to any one Consultant in a 12 month period must not exceed 2% of the issued shares of the Issuer, calculated at the date the option was granted to the Consultant. This 2% limit is included within the option limitations prescribed by section 1.3.

2.3 Optionees Performing Investor Relations Activities

- (a) The aggregate number of options granted to Persons employed to provide Investor Relations Activities must not exceed 2% of the issued shares of the Issuer in any 12 month period, calculated at the date the option was granted. This 2% limit is included within the option limitations prescribed by section 1.3.
- (b) Options issued to Consultants performing Investor Relations Activities must vest in stages over 12 months with no more than 1/4 of the options vesting in any three month period.
- (c) The Issuer's Board must, through the establishment of appropriate procedures, monitor the trading in the securities of the Issuer by all optionees performing Investor Relations Activities. These procedures may include, for example, the establishment of a designated brokerage account through which the optionee conducts all trades in the securities of the Issuer or a requirement for such optionees to file insider trade reports with the Board.
- (d) A statutory exemption may not be available in certain jurisdictions for the issuance of securities to Consultants performing Investor Relations Activities. Issuers must ensure such an exemption is available, or obtain a discretionary exemption from the appropriate Securities Commission.

2.4 Restrictions

- (a) The Exchange may refuse to accept a option for filing if the Exchange is not satisfied that the incentive stock options are distributed on an equitable basis, having regard to:
 - (i) the number of Optionees;
 - (ii) the frequency of Optionee turnover;

- (iii) the size of allocations to new Optionees; and
 - (iv) the duties and qualifications of the Optionee in relation to his or her position.
- (b) The Exchange will not permit an Issuer to use stock options primarily as a means of financing, without the disclosure documents and hold periods that would normally apply to a financing.
 - (c) The Exchange will not permit an Issuer to grant stock options while it is on notice to have its listing transferred to NEX, pursuant to Policy 2.5 (See Policy 2.5 – *Continued Listing Requirements and Inter-Tier Movement*).
 - (d) The Exchange will not accept an option for filing if the option was granted before the Issuer was listed, unless the stock option plan or the stock option agreement was fully disclosed in the Issuer’s Prospectus.

2.5 Optionees

- (a) The Securities Laws provide Prospectus exemptions for securities issued to certain types of people such as Directors or Employees. An Issuer seeking to grant options must ensure the requirements of applicable Securities Laws are satisfied and that exemptions from the Prospectus requirements are available.
- (b) Under Exchange policy, an Optionee must either be a Director, Employee or Consultant of the Issuer or its subsidiary at the time the option is granted, in order to be eligible for the grant of the stock option to the Optionee.
- (c) Except in relation to Consultant Companies, options may be granted only to an individual or to a Company that is wholly owned by individuals eligible for an option grant. If the Optionee is a Company including a Consultant Company, it must provide the Exchange with a completed Form 4F - *Certification and Undertaking Required from a Company Granted an Incentive Stock Option*. Any Company to be granted the incentive stock option must agree not to effect or permit any transfer of ownership or option of shares of the Company nor to issue further shares of any class in the Company to any other individual or entity as long as the incentive stock option remains outstanding, except with the written consent of the Exchange.

2.6 Minimum Exercise Price

- (a) The minimum exercise price of an incentive stock option, whether granted by a Tier 1 or Tier 2 Issuer, must not be less than the Discounted Market Price. If, pursuant to section 2.12 of this Policy, the Issuer does not issue a news release to fix the price, the Discounted Market Price is the last closing price of the Listed Shares before the date of the stock option grant (less the applicable discount).

- (b) If an option is granted by a newly listed Issuer after listing, or by an Issuer which has just been recalled for trading following a suspension or halt, the Exchange will not accept the option for filing until a satisfactory market has been established.
- (c) A minimum exercise price cannot be established unless the options are allocated to particular Persons.
- (d) If incentive stock options are granted within 90 days of a Distribution by a Prospectus, the minimum exercise price of those options will be the greater of the Discounted Market Price and the per share price paid by the public investors for Listed Shares acquired under the Distribution. The 90 day period begins:
 - (i) on the date a final receipt is issued for the Prospectus; or
 - (ii) in the case of an IPO, on the date of listing.
- (e) The exercise price of an incentive stock option must be paid in cash.

2.7 Hold Period

In addition to any Resale Restrictions under Securities Laws, where the exercise price of the stock option is based on the Discounted Market Price, all stock options and any Listed Shares issued under stock options exercised prior to the expiry of the Exchange Hold Period must be legended with the Exchange Hold Period commencing on the date the stock options were granted. See Policy 3.2 – *Filing Requirements and Continuous Disclosure* for the wording on the legend.

2.8 Terms of the Plan

The following must be included in all incentive stock option plans:

- (a) a condition that the option is non-assignable and non-transferable;
- (b) options can be exercisable for a maximum of 10 years from the date of grant;
- (c) a condition that no more than 5% of the issued shares of the Issuer may be granted to any one individual in any 12 month period (unless the Issuer has obtained disinterested Shareholder approval);
- (d) a condition that no more than 2% of the issued shares of the Issuer may be granted to any one Consultant in any 12 month period;
- (e) a condition that no more than an aggregate of 2% of the issued shares of the Issuer may be granted to all Employees conducting Investor Relations Activities, in any 12 month period;

- (f) if a provision is included that the Optionee's heirs or administrators can exercise any portion of the outstanding option, the period in which they can do so must not exceed one year from the Optionee's death;
- (g) a condition that disinterested Shareholder approval will be obtained for any reduction in the exercise price if the Optionee is an Insider of the Issuer at the time of the proposed amendment;
- (h) a provision requiring that, for stock options granted to Employees, Consultants or Management Company Employees, the Issuer represents that the Optionee is a bona fide Employee, Consultant or Management Company Employee, as the case may be; and
- (i) a provision requiring that any options granted to any Optionee who is a Director, Employee, Consultant or Management Company Employee must expire within a reasonable period following the date Optionee ceases to be in that role.

2.9 Shareholder Approval

- (a) Subject to section 2.10, the Issuer's Shareholders must approve any stock option plan that, together with all of the Issuer's other previously established stock option plans or grants, could result at any time in the number of Listed Shares reserved for issuance under stock options exceeding 10% of the issued shares.
- (b) Rolling plans must receive Shareholder approval yearly, at the Issuer's Annual General Meeting. Subject to (c) below, fixed number plans must receive Shareholder approval at the time the plan is to be implemented, and at such time the number of shares reserved for issuance under the plan is amended.
- (c) Approval must take place at a meeting of the Shareholders. Evidence that the majority of the Voting Shares are in favour of the proposal is not an acceptable substitute. Shareholder approval can be given at a meeting of the Shareholders after the establishment of the plan, grant of options or amendment of options, provided that no options are exercised under the plan, individual grant, or amendment before the meeting and that all relevant information concerning the approvals sought has been fully disclosed to the Shareholders prior to the meeting.
- (d) Initial Shareholder approval of the stock option plan is not required if the Issuer is conducting an IPO and has disclosed the details of the stock option grants or plan in its Prospectus.

2.10 Disinterested Shareholder Approval

- (a) An Issuer must obtain disinterested Shareholder approval of stock options if:

- (i) a stock option plan, together with all of the Issuer's previously established and outstanding stock option plans or grants, could result at any time in:
 - (A) the number of shares reserved for issuance under stock options granted to Insiders exceeding 10% of the issued shares;
 - (B) the grant to Insiders, within a 12 month period, of a number of options exceeding 10% of the issued shares; or
 - (C) the issuance to any one Optionee, within a 12 month period, of a number of shares exceeding 5% of the issued shares; or
 - (ii) the Issuer is decreasing the exercise price of stock options previously granted to Insiders.
- (b) If (a) applies, the proposed grant(s) or plan must be approved by a majority of the votes cast by all Shareholders at the Shareholders' meeting excluding votes attaching to shares beneficially owned by:
- (i) Insiders to whom options may be granted under the stock option plan; and
 - (ii) Associates of Persons referred to in (b)(i).
- (c) Holders of non-voting and subordinate voting shares must be given full voting rights on a resolution that requires disinterested Shareholder approval.

2.11 Disclosure

- (a) Subject to section 2.12, in accordance with Policy 3.3 - *Timely Disclosure*, a stock option plan or agreement to grant stock options constitutes Material Information and therefore must be disclosed to the public on the day the plan or option is granted or amended. The news release should include the number of Listed Shares reserved for issuance under the plan or the terms of the stock options under individual grants and subsequent (Shareholder and Exchange) approvals that may be required.
- (b) The Exchange can require an Issuer to change a proposed option exercise price if an option is granted before a news release disclosing Material Information has been adequately disseminated, in circumstances where the trading price of the Issuer's Listed Shares does not reflect the announcement.

2.12 Exceptions to Disclosure Requirement

The Exchange does not require a news release disclosing the grant of stock options if the options are granted to Employees or Consultants that are not directors or officers of the Issuer or performing Investor Relations Activities, except where the grant constitutes Material Information under applicable Securities Laws.

3. Stock Option Plans

- 3.1 Prior to granting incentive stock options, an Issuer must adopt a stock option plan in accordance with this policy. An Issuer must obtain Exchange acceptance of the plan before it grants stock options under the plan. After the Exchange accepts the plan, the Issuer can grant stock options only under the plan.
- 3.2 In determining a plan's acceptability, the Exchange will take into account such factors as: (a) the number of shares reserved for issuance under the plan, (b) the number of Directors and Employees of the Issuer, (c) the average tenure of the eligible Optionees (long vs. short term), (d) whether the Issuer has a long or short term development cycle, and (e) any other factors the Exchange finds relevant.
- 3.3 Shares reserved for issuance under a fixed number stock option plan can exceed the yearly limit of 10% of the Issuer's issued shares provided that the Issuer has received Shareholder approval under section 2.9. The Exchange will not normally accept plans reserving more than 20% of the Issuer's issued Shares, including any outstanding stock options previously granted on an individual basis.
- 3.4 Stock option plans reserving more than 10% of the Issuers issued shares must specify a maximum number of shares issuable under the plan (not a rolling maximum such as a specified percentage of the number of the issued shares from time to time).
- 3.5 Options that have been cancelled or that have expired without being exercised continue to be issuable under the plan under which they were approved.

4. Required Documentation for Stock Option Plans

4.1 Filing a Stock Option Plan

Issuers must receive Exchange acceptance of all stock option plans, at the time of institution of the plan and, in the case of a rolling plan, each year thereafter. In order to obtain Exchange acceptance of a stock option plan and, if applicable, prior to the Issuer seeking any Shareholder approval under section 2.9(b), the Issuer must file the following documentation:

- (a) a copy of the stock option plan;
- (b) a copy of the Information Circular for the meeting at which the plan was approved or is to be approved if that Information Circular has not been filed on SEDAR; and
- (c) the applicable fee as prescribed in Policy 1.3 - *Schedule of Fees*.

4.2 Filing Stock Option Grants Made Under a Stock Option Plan

An Issuer must file the following documentation at the end of each calendar month in which stock options are granted:

- (a) the Summary Form - Incentive Stock Options (Form 4G);
- (b) if the Optionee is not an individual, a Certification and Undertaking Required from a Company Granted an Incentive Stock Option (Form 4F), as described in section 2.5 above; and
- (c) if the Optionee is a new Insider or is undertaking Investor Relations Activities, a Personal Information Form (Form 2A) or, if applicable, a Declaration (Form 2C1).

5. Amending Stock Option Agreements/Plans

5.1 General Requirements

- (a) The Exchange will permit an Issuer to amend the terms of a stock option agreement or plan without the acceptance of the Exchange to:
 - (i) reduce the number of Listed Shares under option;
 - (ii) increase the exercise price; or
 - (iii) cancel an option;provided the Issuer issues a news release outlining the terms of the amendment.
- (b) Except as provided under section 5.1(a) above, an Issuer can amend the other terms of a stock option agreement or plan only where prior Exchange acceptance is obtained and where the following requirements are met:
 - (i) if the Optionee is an Insider of the Issuer at the time of the amendment, the Issuer obtains disinterested Shareholder approval (as described in section 2.10 above);
 - (ii) if the option exercise price is amended, at least six months have elapsed since the later of the date of commencement of the term, the date the Issuer's shares commenced trading, or the date the option exercise price was last amended;
 - (iii) if the option price is amended to the Discounted Market Price, the Exchange Hold Period is applied from the date of the amendment (and for more certainty where the option price is amended to the Market Price, the Exchange Hold Period will not apply); and

- (iv) if the length of the stock option term is amended, any extension of the length of the term of the stock option is treated as a grant of a new option, and therefore also complies with pricing and other requirements of this Policy. The term of an option cannot be extended so that the effective term of the option exceeds 10 years in total. An option must be outstanding for at least one year before the Issuer can extend its term.

The Exchange must accept a proposed amendment before the option under the amended agreement or plan may be exercised as amended. For the purposes of this Policy, if an Issuer cancels a stock option and within one year grants new options to the same individual, the new options will be subject to the requirements in sections (i) to (iv) above.

5.2 Filing Requirements - Amendment

To obtain Exchange acceptance of a stock option amendment, an Issuer must file the following with the Exchange at the end of any calendar month during which stock options have been amended:

- (a) a Summary Form - Incentive Stock Options (Form 4G); and
 - (b) the applicable fee as prescribed in Policy 1.3 - *Schedule of Fees*.
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