

13. The Filer irrevocably and unconditionally submits to the non-exclusive jurisdiction of
- (a) The Financial Services Commission of Jamaica; and
 - (b) the judicial, quasi-judicial and administrative courts and tribunals of Jamaica;
- in any Proceeding arising out of or related to or concerning the distribution of the Securities made or purported to be made under the Prospectus.
14. Until six years after the completion of the distribution of the Securities, the Filer shall file a new submission to jurisdiction and appointment of agent for service of process in this form at least 30 days before termination of this submission to jurisdiction and appointment of agent for service of process.
15. Until six years after the completion of the distribution, the Filer shall file an amended submission to jurisdiction and appointment of agent for service of process at least 30 days before any change in the name or above address of the Agent.
16. This submission to jurisdiction and appointment of agent for service of process shall be governed by and construed in accordance with the laws of Jamaica.

Dated: _____

Signature of Filer

Print name person signing, and if the Filer is not an individual, the title of the person signing on behalf of the Filer

AGENT

The undersigned accepts the appointment as agent for service of process of [insert name of Filer] under the terms and conditions of the appointment of agent for service of process stated above.

Dated: _____

Signature of Agent

Print name of person signing and, if Agent is not an individual, the title of the person signing on behalf of the Agent

OTT_LAW 1150998\2

SECURITIES (PROSPECTUS AND REGISTRATION) REGULATIONS, 2006

**APPENDIX B-2
NON-ISSUER FORM OF SUBMISSION TO
JURISDICTION AND APPOINTMENT OF
AGENT FOR SERVICE OF PROCESS**

1. Name of issuer (the "Issuer"):

2. Jurisdiction of incorporation, or equivalent, of Issuer:

3. Address of principal place of business of Issuer:

4. Description of securities (the "Securities"):

5. Date of the prospectus under which the Securities are offered (the "Prospectus"):

6. Name of person filing this form (the "Filer"):

7. Filer's relationship to the Issuer:

8. Jurisdiction of incorporation, or equivalent, of Filer, if applicable, or jurisdiction of residence

9. Address of Filer's principal place of business:

10. Name of agent for service of process (the "Agent"):

11. Address for service of process of Agent in Jamaica:

12. The Filer designates and appoints the Agent at the address of the Agent stated above as its agent upon whom may be served any notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (the "Proceeding") arising out of, relating to or concerning the distribution of the Securities made or purported to be made under the Prospectus, and irrevocably waives any right to raise as a defence in any such Proceeding any alleged lack of jurisdiction to bring such Proceeding.

12. This submission to jurisdiction and appointment of agent for service of process shall be governed by and construed in accordance with the laws of Jamaica.

Dated: _____

Signature of Issuer

Print name and title of signing officer of Issuer

AGENT

The undersigned accepts the appointment as agent for service of process of [insert name of Issuer] under the terms and conditions of the appointment of agent for service of process stated above.

Dated: _____

Signature of Agent

Print name of person signing and, if Agent is not an individual, the title of the person signing on behalf of the Agent

SECURITIES (PROSPECTUS AND REGISTRATION) REGULATIONS, 2006

APPENDIX B-1
ISSUER FORM OF SUBMISSION TO
JURISDICTION AND APPOINTMENT OF
AGENT FOR SERVICE OF PROCESS

1. Name of issuer (the "Issuer"):

2. Jurisdiction of incorporation, or equivalent, of Issuer:

3. Address of principal place of business of Issuer:

4. Description of securities (the "Securities"):

5. Date of the prospectus under which the Securities are offered (the "Prospectus"):

6. Name of agent for service of process (the "Agent"):

7. Address for service of process of Agent in Jamaica:

8. The Issuer designates and appoints the Agent at the address of the Agent stated above as its agent upon whom may be served any notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (the "Proceeding") arising out of, relating to or concerning the distribution of the Securities made or purported to be made under the Prospectus or the obligations of the Issuer as a reporting issuer, and irrevocably waives any right to raise as a defence in any such Proceeding any alleged lack of jurisdiction to bring such Proceeding.
9. The Issuer irrevocably and unconditionally submits to the non-exclusive jurisdiction of
 - (a) The Financial Services Commission of Jamaica; and
 - (b) the judicial, quasi-judicial and administrative courts and tribunals of Jamaica;in any Proceeding arising out of or related to or concerning the distribution of the Securities made or purported to be made under the Prospectus or the obligations of the Issuer as a reporting issuer.
10. Until six years after it has ceased to be a reporting issuer in Jamaica, the Issuer shall file a new submission to jurisdiction and appointment of agent for service of process in this form at least 30 days before termination of this submission to jurisdiction and appointment of agent for service of process.
11. Until six years after it has ceased to be a reporting issuer in Jamaica, the Issuer shall file an amended submission to jurisdiction and appointment of agent for service of process at least 30 days before any change in the name or above address of the Agent.

SECURITIES (PROSPECTUS AND REGISTRATION) REGULATIONS, 2006**APPENDIX A**

The contractual rights to be provided by the issuer to a purchaser pursuant to section 2.4 of Regulation R shall be substantially in the following form:

Two-Day Cancellation Right - You can cancel your agreement to purchase these securities. To do so, you must send a notice to the issuer or to the underwriter through whom you purchased the securities by midnight on the 2nd business day after you sign the agreement to buy the securities.

Contractual Rights of Action in the Event of a Misrepresentation - If there is a misrepresentation in this prospectus or any of the documents incorporated by reference, you have a contractual right to sue [name of issuer or other term used to refer to the issuer]:

- (a) to cancel your agreement to buy these securities, or
- (b) for damages.

This contractual right to sue is being provided to you by the issuer in consideration of your purchase of the securities:

- (i) whether or not you relied on the misrepresentation; and
- (ii) whether or not any person who participated in preparing or authorizing the prospectus on behalf of the issuer had reasonable grounds to believe that the prospectus did not contain a misrepresentation.

However, in an action for damages the amount you may recover will not exceed the price that you paid for your securities and will not include any part of the damages that [name of issuer or other term used to refer to the issuer] proves does not represent the depreciation in value of the securities resulting from the misrepresentation. [Name of issuer or other term used to refer to the issuer] has a defence if it proves that you knew of the misrepresentation when you purchased the securities.

If you intend to rely on the rights described in (a) or (b) above, you must do so within strict time limitations. You must commence an action to cancel the agreement within 180 days after you signed the agreement to purchase the securities. You must commence an action for damages within the earlier of 180 days after learning of the misrepresentation and 3 years after you signed the agreement to purchase the securities.

These contractual rights are in addition to any other rights you may have at law or under applicable securities legislation.

- (b) the Financial Services Commission has not before, or concurrently with, the delivery of the receipt sent notice to the person that sought the exemption, that the exemption sought may not be evidenced in the manner set out in subsection (1).

PART 9 EFFECTIVE DATE

9.1 Effective Date

This Regulation comes into force on ?, 2006.

temporary order. A temporary order shall expire fifteen days after the date it was made unless the hearing is commenced, in which case the Commission may extend the order until the hearing is concluded.

- (3) A notice of every order made under subsection (1) shall be served upon the issuer, and forthwith upon the receipt of the notice,
 - (a) distribution of the securities under the prospectus by the person named in the order shall cease; and
 - (b) the registration of the issuer in respect of the securities to be issued under the prospectus is revoked.

7.13 Prohibition

No person shall distribute written or printed material in respect of a security, whether in the course of a distribution to the public or otherwise, except in accordance with this Regulation or any exemption granted by the Financial Services Commission.

PART 8 EXEMPTION

8.1 Exemption

- (1) The Financial Services Commission may grant an exemption from the provisions of this Regulation, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) An application made to the Financial Services Commission for an exemption from the provisions of this Regulation shall include a letter or memorandum describing the matters relating to the exemption, and indicating why consideration should be given to the granting of the exemption.

8.2 Evidence of Exemption

- (1) Subject to subsection (2) and without limiting the manner in which an exemption under this Part may be evidenced, the granting under this Part of an exemption may be evidenced by the delivery of a receipt for a prospectus or an amendment to a prospectus.
- (2) An exemption under this Part may be evidenced in the manner set out in subsection (1) only if
 - (a) the person that sought the exemption
 - (i) sent to the Financial Services Commission the letter or memorandum referred to in section 8.1(2) on or before the date of the filing of the preliminary prospectus, or
 - (ii) sent to the Financial Services Commission the letter or memorandum referred to in section 8.1(2) after the date of the filing of the preliminary prospectus and received a written acknowledgement from the Financial Services Commission that the exemption may be evidenced in the manner set out in subsection (1); and

- (2) Subsection (1) does not apply if the purchaser is a licensed dealer or if the purchaser sells or otherwise transfers beneficial ownership of the security, otherwise than to secure indebtedness, before the expiration of the time referred to in subsection (1).

7.9 Application of Section 7.8

For the purposes of section 7.8 (1)

- (1) the receipt of the notice referred to in section 7.8 (1) by a dealer who acted as agent of the vendor with respect to the sale of the security shall be deemed to be receipt by the vendor as of the date on which the dealer received such notice;
- (2) where the prospectus or an amendment to the prospectus is sent by prepaid mail, it shall be deemed to have been received in the ordinary course of mail by the person to whom it was addressed;
- (3) the receipt of the prospectus or an amendment to the prospectus by a licensed dealer who is acting solely as agent of the purchaser shall be deemed to be receipt by the purchaser; and
- (4) a dealer shall not be considered to be acting as agent of the purchaser unless the dealer is acting solely as agent of the purchaser and receives no compensation from or on behalf of the vendor with respect to the purchase and sale.

7.10 Onus of Proof

The onus of proving that the time for giving notice under section 7.8 (1) has expired is upon the dealer from whom the purchaser has agreed to purchase the security, or if there is no dealer, on the vendor.

7.11 Defective Preliminary Prospectus

Where it appears to the Financial Services Commission that a preliminary prospectus for which a receipt has been delivered under section 2.1 (2) is defective in that it does not comply with the requirements of this Regulation, Form R-F1 or otherwise does not comply with any applicable law, the Commission may, without giving notice, order that the distribution of the securities to which the preliminary prospectus relates and the activities permitted by sections 7.2 and 7.3 shall cease until an amended preliminary prospectus satisfactory to the Financial Services Commission is filed and forwarded to each recipient of the defective preliminary prospectus according to the records maintained under section 7.6.

7.12 Order to Cease Distribution

- (1) Where it appears to the Commission, after issuing a receipt for a prospectus under section 2.5 (1), that any of the circumstances set out in section 2.5 (2) exist, the Commission may order that the distribution under the prospectus shall cease.
- (2) No order shall be made under subsection (1) without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest. In this case, the Commission may make a

- (e) containing only such further information as may be permitted or required by any guideline of the Financial Services Commission made with respect to this section and section 7.2.
- (2) to distribute a preliminary prospectus; and
- (3) to solicit expressions of interest from a prospective purchaser if, prior to such solicitation or forthwith after the prospective purchaser indicates an interest in purchasing the security, a copy of the preliminary prospectus is forwarded to the person.

7.4 Material Given on Distribution

From the date of the delivery by the Financial Services Commission of a receipt for a preliminary prospectus relating to a security, an issuer or selling security holder ("vendor") or other person participating in a distribution on behalf of the vendor, shall not distribute any printed or written material or electronically provide or make available any material respecting the security that is not permitted by sections 7.3 (1) or (2).

7.5 Distribution of Preliminary Prospectus

In addition to the requirements of section 7.3 (3), any dealer participating on behalf of the vendor in the distribution of a security to which section 26 of the *Securities Act* applies shall send a copy of the preliminary prospectus to each prospective purchaser who, without solicitation, indicates an interest in purchasing the security and requests a copy of the preliminary prospectus.

7.6 Distribution List

Every dealer participating on behalf of the vendor in the distribution of a security to which section 26 of the *Securities Act* applies, and if there is no dealer, the vendor, shall maintain a record of the names and addresses of all persons to whom the preliminary prospectus has been forwarded.

7.7 Obligation to Deliver Prospectus

A dealer not acting as agent of the purchaser who receives an order or subscription for a security in a distribution to which section 26 of the *Securities Act* applies shall, unless the dealer has previously done so, send by prepaid mail or deliver to the purchaser personally or by other means acceptable to the purchaser (including by electronic delivery), the prospectus and any amendment to the prospectus filed either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after entering into such agreement.

7.8 Withdrawal from Purchase

- (1) An agreement of purchase and sale for a security to which section 26 of the *Securities Act* applies is not binding upon the purchaser, if the vendor or the dealer from whom the purchaser purchases the security receives written or email notice evidencing the intention of the purchaser not to be bound by the agreement of purchase and sale not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after receipt by the purchaser of the prospectus and any amendment to the prospectus.

“waiting period” means the interval, which shall be at least ten days, between the delivery by the Financial Services Commission of a receipt for a preliminary prospectus relating to the offering and the delivery by the Financial Services Commission of a receipt for the prospectus in its final form.

7.2 Solicitations of Expressions of Interest Before Filing Preliminary Prospectus

The registration requirement in section 26 of the *Securities Act* does not apply to solicitations of expressions of interest before the filing of a preliminary prospectus for securities to be qualified for distribution under a prospectus in accordance with this Regulation, if

- (1) the issuer has entered into an enforceable agreement with one or more underwriters who have agreed to purchase the securities,
- (2) the agreement referred to in paragraph (1) has fixed the terms of the distribution and requires that the issuer file a preliminary prospectus for the securities within five business days after the date that the agreement is entered into,
- (3) the issuer has issued and filed a news release announcing the agreement immediately upon entering into the agreement,
- (4) upon issuance of a receipt for the preliminary prospectus, a copy of the preliminary prospectus is sent to each person who has expressed an interest in acquiring the securities, and
- (5) except as provided in paragraph (1), no agreement of purchase and sale for the securities is entered into until the prospectus has been filed and a receipt obtained, and
- (6) the solicitations are otherwise in conformity with any guideline of the Financial Services Commission referred to in section 7.3.

7.3 Distribution of Material During Waiting Period

Subject to any guideline of the Financial Services Commission, it is permissible during the waiting period:

- (1) to distribute a notice or letter, to publish an advertisement or otherwise communicate with any person
 - (a) identifying the issuer and security proposed to be issued,
 - (b) stating its price, if then determined,
 - (c) stating the name and address of a person from whom purchases of the security may be made,
 - (d) stating the name and address of a person from whom a preliminary prospectus may be obtained, including the web address of the issuer where a copy of the prospectus can be retrieved and printed in readable form; and

made by the amendment, if the amendment is also a restatement of the preliminary prospectus or prospectus,

- (c) file or deliver any supporting documents required under this Regulation or other provisions of securities legislation to be filed or delivered with a prospectus unless the documents originally filed or delivered with the prospectus are correct as of the date the amendment is filed, and
- (d) file any consent letter required under this Regulation to be filed with a prospectus, dated as of the date of the amendment.

6.4 Auditor's Comfort Letter

If an amendment to a preliminary prospectus materially affects, or relates to, an auditor's comfort letter delivered under section 4.1, the issuer shall deliver with the amendment a new auditor's comfort letter.

6.5 Forwarding Amendments

An amendment to a preliminary prospectus shall be forwarded to each recipient of the preliminary prospectus according to the record of recipients required under section 7.6.

6.6 Receipt for Amendment to Preliminary Prospectus

The Financial Services Commission shall issue a receipt for an amendment to a preliminary prospectus as soon as reasonably possible after the amendment is filed.

6.7 Amendment to Prospectus

- (1) If, after a receipt is issued for a prospectus but prior to the completion of the distribution, securities in addition to the securities previously disclosed in the prospectus are to be issued, the issuer must file an amendment to the prospectus disclosing the additional securities, as soon as practical, and in any event no later than 10 days after the decision to increase the number of securities to be distributed is made.
- (2) The Financial Services Commission shall issue a receipt for an amendment to a prospectus under this section after it has examined the amendment, unless it considers that it is not in the public interest to do so, or unless otherwise required by securities legislation.
- (3) The Financial Services Commission shall not refuse to issue a receipt under subsection (2) without giving the person who filed the prospectus an opportunity to be heard.
- (4) A distribution may not proceed until a receipt for any required amendment to a prospectus is issued by the Financial Services Commission.

PART 7 OFFERING AND DISTRIBUTION OF SECURITIES

7.1 Definitions

In this Part

5.2 Deemed Incorporation by Reference of Filed Documents

If an issuer does not explicitly incorporate by reference in its prospectus an existing filed document or a subsequently filed document required to be incorporated by reference in a prospectus, the document is nevertheless deemed for purposes of the contractual rights required by section 2.4 and PART 15 of Form R-F1 to be incorporated by reference in the prospectus.

5.3 Exception for Modified or Superseded Information

Despite sections 5.1 and 5.2, to the extent that any information in a document incorporated or deemed to be incorporated by reference in a prospectus is modified or superseded by information contained in the body of the prospectus or in any other subsequently filed document that is also incorporated by reference in the prospectus, the information so modified or superseded is deemed not to form part of the prospectus, as of the date the modifying or superseding information becomes part of the prospectus.

PART 6 AMENDMENTS TO A PROSPECTUS

6.1 Amendment to preliminary prospectus on material change

- (1) Where a material change occurs after a receipt is obtained for a preliminary prospectus and before the receipt for the prospectus is obtained or, where a material change occurs after the receipt for the prospectus is obtained but prior to the completion of the distribution, an amendment to the preliminary prospectus or prospectus, as the case may be, shall be filed as soon as practicable and in any event within ten days after the change occurs.

6.2 Form of Amendment

- (1) An amendment to a preliminary prospectus or a prospectus shall consist of either (i) an amendment in the form of an addendum that does not fully restate the text of the prospectus or (ii) a complete restatement of the prospectus, as amended.
- (2) An amendment to a preliminary prospectus or a prospectus shall contain the certificates required by PART 17 of Form R-F1 and, in the case of an amendment that does not fully restate the text of the preliminary prospectus or prospectus, shall be numbered and dated as follows:

“Amendment No. [insert amendment number] dated [insert date of amendment] to [Preliminary] Prospectus dated [insert date of preliminary prospectus or prospectus].”

6.3 Required Documents for Filing an Amendment

An issuer that files an amendment to a preliminary prospectus or prospectus shall

- (a) file a signed copy of the amendment,
- (b) deliver to the Financial Services Commission a copy of the preliminary prospectus or prospectus blacklined to show the changes

the issuer shall file no later than the time the prospectus is filed, the written consent of the person to being named and to the use of that report, valuation, statement or opinion.

- (2) The consent referred to in subsection (1) shall
 - (a) refer to the report, valuation, statement or opinion stating the date of the report, valuation, statement or opinion, and
 - (b) contain a statement that the person referred to in subsection (1)
 - (i) has read the prospectus, and
 - (ii) has no reason to believe that there are any misrepresentations in the information contained in it that are
 - (A) derived from the report, valuation, statement or opinion, or
 - (B) within the knowledge of the person as a result of the services performed by the person in connection with the report, financial statements, valuation, statement or opinion.
- (3) In addition to any other requirement of this section, the consent of an auditor or accountant shall also state
 - (a) the dates of the financial statements on which the report of the person is made, and
 - (b) that the person has no reason to believe that there are any misrepresentations in the information contained in the prospectus that are
 - (i) derived from the financial statements on which the person has reported, or
 - (ii) within the knowledge of the person as a result of the audit of the financial statements.
- (4) Subsection (1) does not apply to a recognized rating agency that issues a rating of the securities being offered under a prospectus.

PART 5 INCORPORATION BY REFERENCE

5.1 Incorporation by Reference

All current CD filings and all subsequent CD filings of an issuer, other than any confidential material change report, shall be explicitly incorporated by reference into a prospectus and shall form part of the prospectus as if they were reproduced in the body of the prospectus.

- (iv) **Other Reports and Valuations** - a copy of each report or valuation referred to in the prospectus, for which a consent is required to be filed under section 4.4 and that has not previously been filed; and
 - (v) **Issuer's Submission to Jurisdiction** - a submission to jurisdiction and appointment of agent for service of process of the issuer in the form set out in Appendix B-1, if an issuer is incorporated or organized in a foreign jurisdiction and does not have an office in Jamaica;
 - (vi) **Non-Issuer's Submission to Jurisdiction** - a submission to jurisdiction and appointment of agent for service of process of the selling security holder or promoter, as applicable, in the form set out in Appendix B-2, if a selling security holder or promoter of an issuer is incorporated or organized under a foreign jurisdiction and does not have an office in Jamaica or is an individual who resides outside of the island; and
 - (vii) **Expert's Consents** - the consents required to be filed under section 4.4; and
- (b) **Blacklined Prospectus** - deliver to the Financial Services Commission at least two business days before filing of the prospectus in final form, a blacklined copy of the prospectus showing all changes from the preliminary prospectus.

4.3 **Review of Unaudited Financial Statements**

Any unaudited financial statements of an issuer included in or incorporated by reference into a prospectus must have been reviewed in accordance with the relevant standards under IFRS for a review-level assurance by an entity's auditor (or other foreign standards applicable to the issuer).

4.4 **Consents of Experts**

- (1) If any attorney, auditor, accountant, engineer or appraiser, or any other person whose profession or business gives authority to a statement made by that person, is named in a prospectus, either directly or in a document incorporated by reference,
 - (a) as having prepared or certified any part of the prospectus,
 - (b) as having opined on financial statements from which selected information included in the prospectus has been derived and which audit opinion is referred to in the prospectus either directly or in a document incorporated by reference, or
 - (c) as having prepared or certified a report or valuation referred to in the prospectus, either directly or in a document incorporated by reference;

- (B) All of the material incorporated by reference in the preliminary prospectus and not previously filed is being filed with the preliminary prospectus;
 - (iii) **Material Incorporated by Reference** - copies of all material incorporated by reference in the preliminary prospectus and not previously filed;
 - (iv) **Material Documents** - copies of all documents referred to in subsection 12.1(1) or 12.2(1) of Regulation CD that relate to the securities being issued, and that have not previously been filed;
 - (v) **Reports and Valuations** - a copy of each report or valuation referred to in the preliminary prospectus for which a consent is required to be filed under section 4.4 and that has not previously been filed; and
- (b) deliver to the Financial Services Commission, concurrently with the filing of the preliminary prospectus, the following:
- (i) **Expert's Consents** - the consents required to be filed under section 4.4;
 - (ii) **Auditor's Comfort Letter regarding Audited Financial Statements** - a signed letter to the Financial Services Commission from the auditor of the issuer, prepared in accordance with Appendix B of Form R-F1, or if another form has been recommended or is required under IFRS, prepared in accordance with such other form; and
 - (iii) **Cross-Reference Sheet** - if applicable to the issuer, a cross-reference sheet indicating in which sections of the prospectus or the documents incorporated by reference, each of the requirements of the *Third Schedule* to the *Companies Act, 2004* is addressed.

4.2 Required Documents for Filing a Prospectus in Final Form

An issuer that files a prospectus in final form shall

- (a) file the following with the prospectus:
 - (i) **Signed Copy** - a signed copy of the prospectus;
 - (ii) **Material Incorporated by Reference** - copies of all material incorporated by reference in the prospectus and not previously filed;
 - (iii) **Material Documents** - copies of all documents referred to in subsection 12.1(1) or 12.2(1) of Regulation CD that relate to the securities being issued, and that have not previously been filed;

- (ii) accompanied by the following documents prepared in accordance with Regulation CD:
 - (A) an initial Annual Information Form of the applicant;
 - (B) annual financial statements for the most recently completed financial year of the applicant and the accompanying auditor's report;
 - (C) full interim financial statements prepared in accordance with IAS 34 (or other applicable accounting standard for interim financial statements) for the last interim period of the applicant that ended after the end of the applicant's most recently completed financial year and more than 30 days before the date of the application, if applicable;
 - (D) MD&A for the financial statements referred to in paragraph (B) and, if applicable, (C); and
 - (E) a preliminary prospectus for the securities to be issued, together with all documents required to be filed with a preliminary prospectus under this regulation.

3.3 Form of Prospectus

- (1) Without limiting the obligations of an issuer pursuant to section 2.2(1), a preliminary prospectus and a prospectus in final form shall be prepared in the form of an integrated disclosure prospectus in accordance with Form R-F1.
- (2) Despite subsection (1), a preliminary prospectus and a prospectus may contain, in addition to the information prescribed by Form R-F1, any information required by sections 40 to 47 of the *Companies Act, 2004* and the *Third Schedule* to that Act.

PART 4 FILING REQUIREMENTS FOR A PROSPECTUS

4.1 Required Documents for Filing a Preliminary Prospectus

An issuer that files a preliminary prospectus shall

- (a) file the following with the preliminary prospectus:
 - (i) **Signed Copy** - a signed copy of the preliminary prospectus;
 - (ii) **Qualification Certificate** - a certificate, dated as of the date of the preliminary prospectus, executed on behalf of the issuer by one of its executive officers certifying that
 - (A) The issuer is in full compliance with the requirements of all applicable securities legislation, and that offering will not result in a breach or violation of securities legislation;

- (a) 12 months from the date of the prospectus if the securities are being issued by way of a firm underwriting, provided that the firm underwriting must be completed within 42 days after the date of the receipt for the prospectus;
 - (b) 12 months from the date of the prospectus if there is no underwriter or the securities are being issued on a best efforts basis, provided that if the prospectus provides for a minimum subscription amount and that amount has not been received within 90 days after the date of the receipt for the prospectus, the registration of the issuer shall lapse at the end of 90 days; and
 - (c) 25 months from the date of the prospectus if the securities are debt securities or preferred shares and are being issued pursuant to a shelf prospectus.
- (2) No distribution to which section 26 of the *Securities Act* applies shall continue after the expiry date, unless a new prospectus that complies with this Part is filed and a receipt for the new prospectus is obtained from the Financial Services Commission.
 - (3) The Commission may, upon an application of a reporting issuer in compliance with Regulation CD, extend, subject to such terms and conditions as it may impose, the times provided by subsection (1) where in its opinion it would not be prejudicial to the public interest to do so.

PART 3 REGISTRATION TO OFFER SECURITIES

3.1 Application for Registration - Reporting Issuers

- (1) An application for registration by an issuer in respect of a security pursuant to section 26 of the *Securities Act*, if the issuer is a reporting issuer under Regulation CD, shall be
 - (i) submitted on Form R-F2A; and
 - (ii) accompanied by a preliminary prospectus for the securities to be issued, together with all documents required to be filed with a preliminary prospectus under section 4.1.
- (2) If a reporting issuer has not previously filed any of the documents referred in section 3.2 (1)(ii)(A) to (D) at the time it files its application under subsection (1) it shall submit copies of any such documents to the Financial Services Commission at the time of filing its application.

3.2 Application for Registration - New Issuers

- (1) An application for registration of an issuer in respect of a security pursuant to section 26 of the *Securities Act*, if the issuer is not a reporting issuer under Regulation CD, shall be
 - (i) submitted on Form R-F2B;

- (b) an unconscionable consideration has been paid or given or is intended to be paid or given for promotional purposes or for the acquisition of property;
 - (c) the proceeds from the distribution to which the prospectus relates that are to be paid into the treasury of the issuer, together with other resources of the issuer, are insufficient to accomplish the purpose of the offering stated in the prospectus;
 - (d) having regard to the financial condition of the issuer or an officer, director, promoter, or a person or combination of persons holding sufficient of the securities of the issuer to affect materially the control of the issuer, the issuer cannot reasonably be expected to be financially responsible in the conduct of its business;
 - (e) the past conduct of the issuer or an officer, director, promoter, or a person or combination of persons holding sufficient securities of the issuer to affect materially the control of the issuer affords reasonable grounds for belief that the business of the issuer will not be conducted with integrity and in the best interests of its security holders;
 - (f) such escrow or pooling agreement as the Financial Services Commission considers necessary or advisable with respect to securities has not been entered into;
 - (g) such agreement as the Financial Services Commission considers necessary or advisable to accomplish the objects indicated in the prospectus for the holding in trust of the proceeds of the offering pending the distribution of the securities has not been entered into;
 - (h) a person who has prepared or certified any part of the prospectus or is named as having prepared or certified a report or valuation used in or in connection with a prospectus is considered by the Financial Services Commission not to be fit and proper for that purpose; or
 - (i) in the opinion of the Financial Services Commission, it is not in the public interest to issue a receipt for the prospectus.
- (3) The Financial Services Commission shall not refuse to issue a receipt under subsection (2) without giving the person who filed the prospectus an opportunity to be heard.

2.6 Expiry of Registration

- (1) In this section

“expiry date” means, with reference to the registration of an issuer in respect of a security that is being issued under a prospectus,

- (a) the chief executive officer and the chief financial officer, or the persons acting in such capacities for the issuer, whatever their titles,
- (b) on behalf of the board of directors of the issuer, by any two directors of the issuer duly authorized to sign, other than the persons referred to in paragraph (a),
- (c) any person who is a promoter of the issuer, and
- (d) if any underwriter is to participate in the distribution, each such underwriter

to the effect that the prospectus, together with the documents incorporated in it by reference, constitutes full, true and plain disclosure of all material facts relating to the securities offered by the prospectus and contains no misrepresentation that is likely to affect the value or the market price of the securities.

- (2) Despite subsection (1), the certificate of the underwriters may be expressed to be to the best of their knowledge and belief.

2.4 Statement of Rights

Every prospectus shall

- (1) contain a statement of the cancellation rights given to a purchaser by section 7.8, as set out in Appendix A,
- (2) provide to each purchaser the contractual rights of action in the event of a misrepresentation, as set out in Appendix A, and
- (3) contain a short explanatory cross reference to the statutory civil liabilities provided for in section 44 of the *Companies Act, 2004*.

2.5 Delivery of Receipt

- (1) Subject to subsection (2), the Financial Services Commission may evidence the registration of an issuer with respect to the securities to be issued pursuant to a prospectus by delivering a receipt for the prospectus in final form.
- (2) The Financial Services Commission shall not issue a receipt for a prospectus if it appears to the Financial Services Commission that,
 - (a) the prospectus or any document incorporated by reference in the prospectus or required to be filed with it,
 - (i) fails to comply in any substantial respect with any of the requirements of this Regulation or Form R-F1,
 - (ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive, or
 - (iii) contains a misrepresentation;

“securities legislation” includes the *Securities Act* and all regulations and rules made pursuant to that Act, the rules of the Jamaica Stock Exchange and sections 40 to 47 and the *Third Schedule* to the *Companies Act, 2004*;

“subsequent CD filings” means the CD filings of an issuer made or to be made after the date of filing of a preliminary prospectus or a prospectus.

1.3 References to Information Included in a Document

References in this Regulation to information included in a document refer to both information contained directly in the document and information incorporated by reference into the document.

1.4 References to Information to be Included in a Document

Provisions of this Regulation that require an issuer to include information in a document require an issuer either to insert the information directly in the document or to incorporate the information in the document by reference.

1.5 Interpretation of Prospectus

In this Regulation, unless otherwise stated, a reference to a prospectus includes a preliminary prospectus and a prospectus in its final form.

PART 2 PROSPECTUS

2.1 Prospectus Required

- (1) The Financial Services Commission shall not register an issuer in respect of a security under section 26 of the *Securities Act* unless a preliminary prospectus and a prospectus have been filed and the Commission has delivered receipts for them.
- (2) The Financial Services Commission shall issue a receipt for a preliminary prospectus forthwith following the filing of the prospectus and delivery to the Commission of the documents required by section 5.1.

2.2 Full, True and Plain Disclosure Required

- (1) A prospectus shall provide full, true and plain disclosure of all material facts relating to the securities to be issued and shall not contain any misrepresentation likely to affect the value or the market price of the securities.
- (2) Without limiting the obligations of an issuer under subsection (1), a prospectus shall contain or incorporate by reference such financial statements, reports and other documents as are required by this Regulation and Form R-F1.

2.3 Certificates

- (1) Every prospectus shall contain a certificate signed by

- (ii) the issuer is not yet required under Regulation CD to have filed annual financial statements for that financial year;

“firm underwriting” means a distribution (or a specified portion of a distribution) where an underwriter has agreed to purchase all of the securities at a specified price, even though the underwriter’s obligations may be subject to a market out clause or other conditions;

“distribution” means any dealing with a security, including

- (a) a sale or disposition for valuable consideration,
- (b) the receipt by a dealer, issuer, selling security holder or promoter of an order to buy or sell the security, and
- (c) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing;

and any of the actions described above made with respect to

- (d) securities of an issuer that have not been previously issued,
- (e) previously issued securities of an issuer that have been redeemed or purchased by the issuer, or
- (f) previously issued securities of an issuer;

“person” includes a entity as defined above;

“printed” or “written” includes material distributed by electronic means;

“promoter” means

- (1) a person who, acting alone or in conjunction with one or more other persons, directly or indirectly takes the initiative in founding, organizing or substantially reorganizing the business of an issuer, or
- (2) a person who, in connection with the founding, organizing or substantial reorganizing of the business of an issuer, directly or indirectly receives in consideration of services or property, 10 per cent or more of any class of securities of the issuer or 10 per cent or more of the proceeds from the sale of any class of securities of a particular issue, but a person who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter if he does not otherwise take part in founding, organizing or substantially reorganizing the business;

“recognized rating agency” means a credit rating organization recognized by the Commission for the purposes of this Regulation;

“reorganization” means any amalgamation, transfer, pooling, merger or other transaction made pursuant to sections 206 to 211 of the *Companies Act, 2004* or similar legislation in any other jurisdiction;

REGULATION R
SECURITIES (REGISTRATION AND PROSPECTUS DISCLOSURE) REGULATIONS, 2006

PART 1 DEFINITIONS AND INTERPRETATIONS

1.1 Short Title

This Regulation may be referred to as Regulation R.

1.2 Definitions

(1) Words and expressions defined in Regulation CD (including the Forms to Regulation CD), or defined in the *Securities Act* or the *Companies Act, 2004*, unless otherwise defined in this Regulation, have the same meanings when used in this Regulation.

(2) In this Regulation

“CD filings” means all documents filed or required to be filed by an issuer under Regulation CD;

“entity” includes a corporation, partnership, trust, or other business organization, whether incorporated or unincorporated;

“current CD filings” means the CD filings of an issuer up to and including the date of filing of a preliminary prospectus or a prospectus;

“current Annual Information Form” means

- (a) if the issuer has filed an Annual Information Form for its most recently completed financial year, that Annual Information Form, or
- (b) the issuer’s Annual Information Form filed for the preceding financial year if
 - (i) the issuer has not filed an Annual Information Form for its most recently completed financial year, and
 - (ii) the issuer is not yet required under Regulation CD to have filed annual financial statements for that financial year;

“current annual financial statements” means

- (a) if the issuer has filed its comparative annual financial statements in accordance with Regulation CD for its most recently completed financial year, those financial statements together with the auditor’s report accompanying the financial statements, or
- (b) the issuer’s comparative annual financial statements filed for the preceding financial year, together with the auditor’s report accompanying the financial statements if
 - (i) the issuer has not filed its comparative annual financial statements for its most recently completed financial year, and

**TABLE OF CONTENTS
(continued)**

	Page
7.9 Application of Section 7.8.....	14
7.10 Onus of Proof.....	15
7.11 Defective Preliminary Prospectus	15
7.12 Order to Cease Distribution.....	15
7.13 Prohibition.....	16
PART 8 EXEMPTION.....	16
8.1 Exemption.....	16
8.2 Evidence of Exemption	16
PART 9 EFFECTIVE DATE.....	16
9.1 Effective Date.....	16

SECURITIES (REGISTRATION AND PROSPECTUS DISCLOSURE) REGULATIONS, 2006**TABLE OF CONTENTS**

	Page
PART 1 DEFINITIONS AND INTERPRETATIONS	1
1.1 Short Title	1
1.2 Definitions	1
1.3 References to Information Included in a Document	3
1.4 References to Information to be Included in a Document	3
1.5 Interpretation of Prospectus	3
PART 2 PROSPECTUS	3
2.1 Prospectus Required	3
2.2 Full, True and Plain Disclosure Required	3
2.3 Certificates	3
2.4 Statement of Rights	4
2.5 Delivery of Receipt	4
2.6 Expiry of Registration	5
PART 3 REGISTRATION TO OFFER SECURITIES	6
3.1 Application for Registration – Reporting Issuers	6
3.2 Application for Registration – New Issuers	6
3.3 Form of Prospectus	7
PART 4 FILING REQUIREMENTS FOR A PROSPECTUS	7
4.1 Required Documents for Filing a Preliminary Prospectus	7
4.2 Required Documents for Filing a Prospectus in Final Form	8
4.3 Review of Unaudited Financial Statements	9
4.4 Consents of Experts	9
PART 5 INCORPORATION BY REFERENCE	10
5.1 Incorporation by Reference	10
5.2 Deemed Incorporation by Reference of Filed Documents	10
5.3 Exception for Modified or Superseded Information	11
PART 6 AMENDMENTS TO A PROSPECTUS	11
6.1 Amendment to preliminary prospectus on material change	11
6.2 Form of Amendment	11
6.3 Required Documents for Filing an Amendment	11
6.4 Auditor’s Comfort Letter	12
6.5 Forwarding Amendments	12
6.6 Receipt for Amendment to Preliminary Prospectus	12
6.7 Amendment to Prospectus	12
PART 7 OFFERING AND DISTRIBUTION OF SECURITIES	12
7.1 Definitions	12
7.2 Solicitations of Expressions of Interest Before Filing Preliminary Prospectus	13
7.3 Distribution of Material During Waiting Period	13
7.4 Material Given on Distribution	14
7.5 Distribution of Preliminary Prospectus	14
7.6 Distribution List	14
7.7 Obligation to Deliver Prospectus	14
7.8 Withdrawal from Purchase	14