

# **UNDERWRITING AGREEMENT**

**AMONG**

**XANTREX TECHNOLOGY INC.**

**AND**

**RBC DOMINION SECURITIES INC.**

**AND**

**CIBC WORLD MARKETS INC.**

**AND**

**UBS SECURITIES CANADA INC.**

**AND**

**NATIONAL BANK FINANCIAL INC.**

**AND**

**GMP SECURITIES LTD.**

**AND**

**RAYMOND JAMES LTD.**

**AND**

**CERTAIN SELLING SHAREHOLDERS**

**Dated March 12, 2004**

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## UNDERWRITING AGREEMENT

March 12, 2004

Xantrex Technology Inc.  
8999 Nelson Way  
Burnaby, BC V5A 4B5  
Canada

- and -

### The Selling Shareholders identified in Schedule A

Ladies and Gentlemen:

The undersigned, RBC Dominion Securities Inc. (“**RBC**”), CIBC World Markets Inc., UBS Securities Canada Inc., GMP Securities Ltd., National Bank Financial Inc. and Raymond James Ltd. (collectively, the “**Underwriters**” and each individually an “**Underwriter**”) understand that:

- (a) Xantrex Technology Inc. (the “**Corporation**”) is a corporation incorporated under the laws of Canada;
- (b) the authorized share capital of the Corporation consists of an unlimited number of common shares (“**Common Shares**”) of which 23,963,471 are issued and outstanding as of the date hereof; and
- (c) 6,698,245 Common Shares are issuable pursuant to rights attached to securities which are directly or indirectly convertible, exchangeable or exercisable into Common Shares.

The Underwriters also understand that the Corporation proposes to issue and sell to the Underwriters 3,725,000 Common Shares of the Corporation (the “**Purchased Shares**”) having the material attributes described herein and in the Prospectus (as defined below).

Subject to the terms and conditions contained in this Agreement, the Underwriters hereby severally offer to purchase from the Corporation, in the respective percentages set forth in paragraph 25(a) of this Agreement, and the Corporation hereby agrees to sell to the Underwriters all but not less than all of the Purchased Shares on the Closing Date (as defined below) for a purchase price of \$18.00 per share (the “**Purchase Price**”).

In addition, the Selling Shareholders and the Corporation severally grant to the Underwriters, in the respective percentages set forth in paragraph 25(a) of this Agreement, an unassignable and irrevocable option (the “**Over-Allotment Option**”) to purchase from the Selling Shareholders in the amounts set forth opposite their respective names in Schedule A to this Agreement and to purchase from the Corporation in the circumstances and in the manner provided in paragraph 7, on the same terms and conditions as the Purchased Shares, up to 558,750 additional common shares of the Corporation (the “**Additional Shares**” and, collectively with the Purchased Shares, the “**Shares**”), representing in aggregate 5% of the number of Purchased Shares.

## TERMS AND CONDITIONS

1. **Underwriting Fees.** In consideration of the agreement of the Underwriters to purchase the Purchased Shares and if the Underwriters exercise the Over-Allotment Option to purchase from the Corporation in the manner provided in paragraph 7, any Additional Shares, and to offer them to the public and, of the services to be rendered by the Underwriters in connection therewith, the Corporation agrees to pay to the Underwriters at the Closing Time (as defined below) a fee of \$1.08 (exclusive of federal goods and services tax, if applicable) per Common Share (the “**Corporation’s Underwriting Fee**”) for each Purchased Share and for each Additional Share purchased from the Corporation. In consideration of the agreement of the Underwriters to purchase the Additional Shares from the Selling Shareholders set forth in Schedule A upon the exercise by the Underwriters of the Over-Allotment Option, and to offer them to the public, and of the services to be rendered by the Underwriters in connection therewith, the Selling Shareholders agree to pay to the Underwriters a fee of \$1.08 (exclusive of federal goods and services tax, if applicable) per Common Share (the “**Selling Shareholder’s Underwriting Fee**”, and together with the Corporation’s Underwriting Fee, the “**Underwriting Fees**”) for each Additional Share purchased from the Selling Shareholders. The Underwriting Fees will be due and payable at each Closing Time (as defined below) against payment for the Shares.

2. **Definitions and Interpretation.** In this Agreement, the following terms will have the following meanings, respectively:

“**1933 Act**” means the United States Securities Act of 1933, as amended, and the rules and regulations thereunder;

“**1934 Act**” means the United States Shares Exchange Act of 1934, as amended, and the rules and regulations thereunder;

“**Additional Shares**” has the meaning given to it above;

“**affiliate**” has the meaning given to it in Ontario Securities Commission Rule 45-501 – *Exempt Distributions*;

“**Agreement**” means the agreement resulting from the acceptance by the Corporation and the Selling Shareholders of the offer made by the Underwriters by this letter;

“**Business Day**” means any day, other than a Saturday or Sunday, on which chartered banks in Vancouver, British Columbia are open for commercial banking business;

“**Canadian Securities Laws**” means, collectively, all applicable securities laws in each of the Qualifying Jurisdictions and the respective rules, regulations, blanket orders and blanket rulings under such laws together with applicable published policies, policy statements and notices of the securities regulatory authorities in the Qualifying Jurisdictions;

“**Canadian Securities Regulators**” means the applicable securities commissions or other securities regulatory authorities in each of the Qualifying Jurisdictions;

“**CDS**” means the Canadian Depository for Securities Limited;

“**Claim**” has the meaning given to it in paragraph 21(a);

“**Closing**” means the completion of the purchase of Shares by the Underwriters pursuant to this Agreement;

“**Closing Date**” means March 19, 2004 or such other date as the Corporation and the Underwriters may agree upon in writing or as may be changed pursuant to paragraph 11(a) but in any event will not be later than April 23, 2004;

“**Closing Time**” means 5:45 a.m. (Vancouver time) on the Closing Date or the Option Closing Date, as the case may be or such other time on the Closing Date or the Option Closing Date, as the Corporation and the Underwriters may agree;

“**Corporation**” has the meaning given to it above;

“**Corporation’s Underwriting Fee**” has the meaning given to it above;

“**distribution**” has the meaning given to it in the *Securities Act* (British Columbia);

“**Final Prospectus**” means the (final) prospectus (in both the English and French languages unless the context indicates otherwise) to be prepared and filed by the Corporation and relating to the distribution of the Shares in the Qualifying Jurisdictions;

“**Financial Information**” has the meaning given to it in paragraph 8(a)(ii);

“**Financial Statements**” has the meaning given to it in paragraph 8(a)(ii);

“**including**” means including, without limitation;

“**Indemnified Party**” and “**Indemnified Parties**” have the respective meanings given to them in paragraph 21(a);

“**MRRS**” means the mutual reliance review system procedures provided for under National Policy 43-201 - *Mutual Reliance Review System for Prospectuses and Annual Information Forms*;

“**material change**” has the meaning given to it in the *Securities Act* (British Columbia);

“**material fact**” has the meaning given to it in the *Securities Act* (British Columbia);

“**misrepresentation**” has the meaning given to it in the *Securities Act* (British Columbia);

“**notice**” has the meaning given to it in paragraph 31;

“**Offering**” means the offering of the Shares pursuant to this Agreement and as described in the Prospectus;

“**Option Closing Date**” has the meaning given to it in paragraph 7;

“**Over-Allotment Option**” has the meaning given to it above;

“**Preliminary Prospectus**” means the amended and restated preliminary prospectus (in both the English and French languages unless the context indicates otherwise) dated February 6, 2004 as amended on February 19, 2004 prepared by the Corporation and relating to the distribution of the Shares;

**“Prospectus”** means, collectively, the Preliminary Prospectus and the Final Prospectus;

**“Purchase Price”** has the meaning given to it above;

**“Purchased Shares”** has the meaning given to it above;

**“Qualifying Jurisdictions”** means all of the provinces of Canada;

**“Regulation D”** means Regulation D under the 1933 Act;

**“RBC”** has the meaning given to it above;

**“Rule 144A”** means Rule 144A under the 1933 Act;

**“SEC”** means the United States Securities and Exchange Commission;

**“Selling Shareholder”** and **“Selling Shareholders”** have the respective meanings given to them above;

**“Selling Shareholder’s Underwriting Fee”** has the meaning given to it above;

**“Shares”** has the meaning given to it above;

**“Subsidiaries”** means Xantrex Technology Inc., a Washington state corporation; Xantrex Technology Limited, a United Kingdom corporation; 3024380 Nova Scotia Company, a Nova Scotia company; Xantrex Technology SRL, a Barbados society; Xantrex Technology (BVI) Inc., a British Virgin Islands corporation; Xantrex International SL, a Spanish corporation; and Xantrex International, a partnership formed under the laws of Barbados;

**“Supplementary Materials”** means, collectively, any amendment to the Preliminary Prospectus or the Final Prospectus, or supplemental prospectus or ancillary materials and each other document filed or to be filed with any Canadian Security Regulator in connection with the qualification for distribution of the Shares under any of the Canadian Securities Laws;

**“TSX”** means the Toronto Stock Exchange;

**“Unanimous Shareholders’ Agreement”** means the Amended and Restated Xantrex Unanimous Shareholders’ Agreement dated March 31, 2000, as amended, among the Corporation and each of its shareholders;

**“Underwriter”** and **“Underwriters”** have the respective meanings given to them above;

**“Underwriting Fees”** has the meaning given to it above;

**“United States”** means the United States of America, its territories and possessions, any state of the United States and the District of Columbia;

**“U.S. Offering Memorandum”** has the meaning given to it in Schedule B to this Agreement; and

**“Xantrex US Exchangeable Shares”** has the meaning given to it in the Prospectus.

Capitalized terms used but not defined herein have the meanings given to them in the Prospectus.

Unless otherwise expressly provided in this Agreement, any reference in this Agreement to a paragraph or subparagraph will refer to a paragraph or subparagraph of this Agreement.

Unless otherwise expressly provided in this Agreement, words importing only the singular number include the plural and vice versa and words importing gender include all genders.

All references to dollars or "\$" in this Agreement are to Canadian dollars unless otherwise expressed.

3. **Attributes of the Shares.** The Shares to be issued under this Agreement by the Corporation or to be sold under this Agreement by the Selling Shareholders are or will be duly and validly created and issued by the Corporation on Closing and the Shares have or will have the attributes set out in the Prospectus, subject to any modifications or changes prior to the Closing Date provided for in the Prospectus or as may be agreed to in writing by the Corporation, the Selling Shareholders and the Underwriters.

4. **Filing of Prospectus.** The Corporation has prepared and filed the Preliminary Prospectus and has obtained an MRRS decision document dated February 19, 2004 evidencing the issuance by the Canadian Securities Regulators of receipts for the Preliminary Prospectus and any Supplementary Materials filed therewith. The Corporation has prepared and will file the Final Prospectus and any Supplementary Materials thereto promptly after the execution of this Agreement and will obtain as soon as possible and in any event not later than 5:00 p.m. (Vancouver time) on March 12, 2004 (or such other time and/or date as the Corporation and the Underwriters may agree) an MRRS decision document evidencing the issuance by the Canadian Securities Regulators of receipts for the Final Prospectus and any Supplementary Materials filed therewith.

5. **Distribution and Certain Obligations of the Underwriters.** The Underwriters propose to distribute the Shares in Canada pursuant to the Prospectus and to sell Purchased Shares in the United States pursuant to Rule 144A and to a limited number of institutional "accredited investors" as defined in Rule 501(a)(1), (2), (3) or (7) under Regulation D and to sell Additional Shares in the United States pursuant to Rule 144A in the manner contemplated by this Agreement. Subject to applicable law, the Underwriters also propose to distribute the Shares outside of Canada and the United States. The Corporation, the Selling Shareholders and the Underwriters agree that Schedule B to this Agreement, entitled "Rule 144A and Regulation D Sales, in the United States", is incorporated by reference in and will form part of this Agreement.

The Underwriters will, and will require any investment dealer or broker, other than the Underwriters, with which the Underwriters have a contractual relationship in respect of the distribution of the Shares (a "Selling Firm"), to comply with the Canadian Securities Laws in connection with the distribution of the Shares and will offer the Shares for sale to the public directly and through Selling Firms upon the terms and conditions set out in the Prospectus and this Agreement. The Underwriters will not solicit offers to purchase or sell the Shares so as to require registration thereof or filing of a prospectus with respect thereto under the laws of any jurisdiction (other than the Qualifying Jurisdictions) including, without limitation, the United States and, if they offer to sell or sell any Shares in jurisdictions other than the Qualifying Jurisdictions or the United States, such offers and sales will be in accordance and in compliance with applicable laws of such jurisdictions. The Underwriters will cause similar undertakings to be contained in agreements with any Selling Firm entered into for the purpose of selling the Shares.

For purposes of this paragraph 5, the Underwriters will be entitled to assume that the Shares are qualified for distribution in any Qualifying Jurisdiction where a receipt or similar document for the Prospectus has been obtained from the applicable Canadian Securities Regulators following the filing of the Prospectus

and any province covered by a MRRS decision document issued by the British Columbia Securities Commission, in its capacity as principal regulator, under MRRS.

The Underwriters will give prompt written notice(s) to the Corporation and, if the Underwriters have exercised the Over-Allotment Option, to the Selling Shareholders when, in the opinion of the Underwriters, they have completed the distribution of the Purchased Shares and the Additional Shares, respectively, and such notice will set forth the total proceeds realized in each of the Qualifying Jurisdictions and any other jurisdiction from such distribution.

6. **Due Diligence.** Prior to filing of the Preliminary Prospectus, the Final Prospectus and any Supplementary Materials and prior to the Closing of the Offering, the Corporation has allowed or will allow the Underwriters to participate fully in the preparation of such documents and to conduct any due diligence investigations which each of them reasonably requires in order to fulfil its obligations as an underwriter under the Canadian Securities Laws and to enable it to responsibly execute the certificate in the Preliminary Prospectus and the Final Prospectus and any certificate in Supplementary Materials required to be executed by it. It will be a condition precedent to the Underwriters' execution of any certificate in the Prospectus and any Supplementary Materials and a condition precedent to the Closing of the Offering that the Underwriters be satisfied, acting reasonably, as to the form and content of the document.

7. **Over-Allotment Option.** The Over-Allotment Option may be exercised by RBC, on behalf of the Underwriters, in whole or in part and on one or more occasions prior to its expiry 30 days after the Closing Date and solely for the purposes of covering over-allotments made in connection with the offering of the Purchased Shares and for market stabilization purposes permitted pursuant to Canadian Securities Laws. If RBC elects to exercise the Over-Allotment Option, RBC will notify the Selling Shareholders and the Corporation in writing not later than 5:00 p.m. on the 30<sup>th</sup> day after the Closing Date, which notice will specify the number of Additional Shares to be purchased by the Underwriters and the date on which such Additional Shares are to be purchased (the "**Option Closing Date**"). Such Option Closing Date may be the same as (but not earlier than) the Closing Date and will not be earlier than three Business Days nor later than five Business Days after the date of delivery of such notice. Upon the furnishing of the notice by RBC in accordance with this paragraph 7, the Underwriters will be committed to purchase, in the respective percentages set forth in paragraph 25(a), and each of the Selling Shareholders will be committed to sell pro rata (in accordance with their respective number of Additional Shares set forth in Schedule A) that number of Additional Shares indicated in the notice.

In the event that a Selling Shareholder does not, in accordance with paragraph 14, deliver, prior to the Closing Time on the Option Closing Date, the certificates representing its pro rata portion of the Additional Shares to be purchased by RBC pursuant to this paragraph 7, the Corporation will at the Closing Time on the Option Closing Date issue to the Underwriters from treasury of the Corporation and the Underwriters will acquire from the Corporation that number of Shares equivalent to the Shares that such Selling Shareholder would have sold to the Underwriter, but for the Selling Shareholder's failure to deliver the certificates representing such shares in accordance with paragraph 14. For greater certainty the failure by the Selling Shareholder to deliver the certificates representing such Additional Shares in accordance with paragraph 14 and the issuance by the Corporation of shares from treasury in lieu thereof will extinguish the obligation of the Underwriter under this paragraph 7 to acquire such Additional Shares from such Selling Shareholder, notwithstanding that RBC has elected to exercise the Over-Allotment Option with respect to such shares.

8. **Delivery of Documents; Notices.**

(a) **Deliveries on Filing**

Contemporaneously with or prior to the filing of the Final Prospectus, the Corporation will deliver to the Underwriters and the Underwriters' counsel, without charge, the documents set out below:

- (i) a copy of the Final Prospectus in the English and French language signed and certified as required by the Canadian Securities Laws in the Qualifying Jurisdictions and a copy of the U.S. Offering Memorandum;
- (ii) an opinion of Stikeman Elliott LLP, dated the date of the Final Prospectus, in form and substance satisfactory to the Underwriters, addressed to the Underwriters, Underwriters' counsel and the Corporation, to the effect that the French language version of each of the Preliminary Prospectus and the Final Prospectus, except for the annual audited financial statements of the Corporation as at and for the fiscal years ended December 31, 2003, 2002 and 2001 (collectively the "**Financial Statements**"), the schedules and notes thereto and the related auditors' report on such statements and the sections of the Prospectus entitled "Summary Consolidated Financial Information", "Selected Consolidated Financial Information", "Management's Discussion and Analysis" and "Selected Quarterly Financial Information" (collectively, with the Financial Statements, the "**Financial Information**"), as to which no opinion need be expressed by such counsel, are, in all material respects, a complete and accurate translation of the English language version thereof and that the English and French language versions are not susceptible to any materially different interpretation with respect to any matter contained therein;
- (iii) an opinion of KPMG LLP dated the date of the Final Prospectus, in form and substance satisfactory to the Underwriters, addressed to the Underwriters, the Underwriters' counsel and the Corporation, to the effect that the French language version of the Financial Information contained in the Preliminary Prospectus and the Final Prospectus is, in all material respects, complete and accurate translation of the English language version thereof and that the English and French language versions are not susceptible to any materially different interpretation with respect to any matter contained therein;
- (iv) the "long-form" comfort letter dated the date of the Final Prospectus, in form and substance satisfactory to the Underwriters, addressed to the Underwriters and the board of directors of the Corporation and the Selling Shareholders from KPMG LLP, the auditors of the Corporation, and based on a review completed not more than two Business Days prior to the date of the letter, with respect to certain financial and accounting information relating to the Corporation in the Final Prospectus and any Supplementary Materials relating thereto, which letter will be in addition to the auditors' report contained in the Final Prospectus and any auditors' comfort letter addressed to the Canadian Securities Regulators; and
- (v) evidence satisfactory to the Underwriters of the conditional approval by the TSX of the listing and posting for trading on the TSX of the Shares, subject only to satisfaction by the Corporation of customary post-closing conditions imposed by the TSX in similar circumstances.

**(b) Supplementary Materials**

The Corporation will prepare and deliver promptly to the Underwriters and Underwriters' counsel English and (where applicable) French versions of all Supplementary Materials signed and certified as required by Canadian Securities Laws. Concurrently with the delivery of any Supplementary Materials, the Corporation will deliver to the Underwriters and Underwriters' counsel, with respect to such Supplementary Materials, opinions and comfort letters substantially similar to those referred to in paragraphs 8(a)(ii), (iii) and (iv).

**(c) Notices to Underwriters**

The Corporation will notify the Underwriters promptly, and confirm the notice in writing, (i) when the Preliminary Prospectus, the Final Prospectus, and any Supplementary Materials have been filed by the Corporation, (ii) of the receipt of any comments thereon from any Canadian Securities Regulator, (iii) of any request by any Canadian Securities Regulator to amend or supplement such materials or for additional information, (iv) of the issuance by any Canadian Securities Regulator, the SEC or any stock exchange of any order having the effect of preventing, ceasing or suspending the distribution of the Shares or the trading in any securities of the Corporation, or of the institution or, to the knowledge of the Corporation, threatening of any proceedings for any such purpose. The Corporation will use every reasonable effort to prevent the issuance of any such cease trade or stop order or of any order preventing ceasing or suspending the distribution of the Shares or the trading in any securities of the Corporation and, if any such order is issued, to obtain the lifting thereof at the earliest possible time.

**(d) Commercial Copies**

The Corporation will cause commercial copies of the Preliminary Prospectus or the Final Prospectus, in the English and French languages and commercial copies of the U.S. Offering Memorandum to be delivered to the Underwriters without charge, in such quantities and in such cities as the Underwriters may reasonably request by oral or written instructions to the printer of such documents. Such deliveries of the Prospectus will be effected as soon as possible after filing thereof with the Canadian Securities Regulators but, in any event on or before 9:00 a.m. (Vancouver time) on the business day next following the day of the filing thereof. The Corporation will, as soon as possible following a request from the Underwriters, deliver or cause to be delivered to the Underwriters such additional commercial copies of the Prospectus in such numbers and at such locations as the Underwriters may reasonably request from time to time. The Corporation will from time to time deliver or cause to be delivered to the Underwriters, as soon as practicable, commercial copies of any Supplementary Materials in such numbers and at such locations as the Underwriters may reasonably request from time to time.

**9. Representations, Warranties and Covenants of the Corporation.**

**(a) Content of Documents Filed**

Filing with Canadian Securities Regulators of the Preliminary Prospectus, Final Prospectus and any Supplementary Materials will constitute a representation and warranty by the Corporation to the Underwriters and the Selling Shareholders that, as at their respective dates and as at the date of filing and at all times subsequent thereto up to and including the Closing Time:

- (i) all information and statements (except statements relating solely to the Underwriters and provided by the Underwriters) contained in the Prospectus and the Supplementary Materials are true and correct and contain no misrepresentation and constitute full, true

and plain disclosure of all material facts relating to the Corporation and its Subsidiaries as a whole and the Shares;

- (ii) no material fact or information has been omitted from the Prospectus or Supplementary Materials (except facts or information relating solely to the Underwriters and provided by the Underwriters) which is required to be stated therein or is necessary to make the statements or information contained therein not misleading in light of the circumstances under which they were made; and
- (iii) the Prospectus and Supplementary Materials comply fully with the requirements of Canadian Securities Laws.

Such filings will also constitute the Corporation's consent to the Underwriters' use of the Prospectus and any Supplementary Materials in connection with the distribution of the Shares in the Qualifying Jurisdictions in compliance with this Agreement and Canadian Securities Laws.

**(b) Other Matters**

The Corporation represents and warrants to the Underwriters that, and acknowledges that the Underwriters are relying upon such representations and warranties in purchasing and distributing the Shares:

- (i) the Corporation and each of the Subsidiaries is duly incorporated or formed and validly existing under the laws of its jurisdiction of incorporation and is properly registered under the laws of all jurisdictions in which its business is carried on;
- (ii) the Corporation has the requisite corporate power, authority and capacity to enter into and deliver this Agreement and to perform the transactions contemplated herein to be performed by it and each of the Corporation and its Subsidiaries has the requisite corporate power, authority and capacity to own, lease and to operate its property and assets, including licences or other rights, and to carry on its business as currently carried on or as currently proposed to be carried on in the Prospectus;
- (iii) as of the date of this Agreement, the authorized share capital of the Corporation consists of an unlimited number of Common Shares of which 23,963,471 Common Shares are issued and outstanding;
- (iv) no person, firm or corporation has or will have at the Closing Date any agreement, option, or right or privilege (whether pre-emptive or contractual) capable of becoming an agreement or option, for the purchase from the Corporation of any unissued shares or securities of the Corporation, except as otherwise provided for in the Prospectus under the headings "Options to Purchase Securities – Outstanding Options", "Options to Purchase Securities – Exchangeable Shares and Warrants" and "Plan of Distribution";
- (v) other than the Unanimous Shareholders' Agreement disclosed in the Prospectus, there is no agreement to which the Corporation or any of its Subsidiaries is a party in force or effect which in any manner affects or will affect the voting or control of any of the Shares of the Corporation or any of its Subsidiaries;
- (vi) the Unanimous Shareholders' Agreement will be terminated on the Closing Date, effective immediately prior to Closing;

- (vii) the execution, delivery and performance by the Corporation of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by the Corporation and this Agreement constitutes a legal, valid and binding obligation of the Corporation, enforceable against it in accordance with its terms, except as enforcement hereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and except as limited by the application of equitable principles when equitable remedies are sought and subject to the fact that rights of indemnity and contribution may be limited by applicable law;
- (viii) the Corporation is not in breach or violation of, and the execution, delivery and performance by the Corporation of this Agreement and the consummation by the Corporation of the transactions contemplated herein will not result in any breach or violation of, or be in conflict with, or constitute a default under, or create a state of facts which after notice or lapse of time, or both, would constitute a breach or violation of or a conflict with or a default under, or result in the creation or imposition of any mortgage, lien, charge or encumbrance upon any property or asset of the Corporation or its Subsidiaries under:
  - (A) any term or provision of the constating documents or by-laws of the Corporation or any of its Subsidiaries;
  - (B) any resolution of the directors or shareholders of the Corporation or any of its Subsidiaries;
  - (C) any material contract, mortgage, note, indenture, joint venture or partnership arrangement, agreement (written or oral), instrument or lease, or any statute, rule, licence, regulation, judgment, decree, order of any government, governmental, regulatory or administrative agency, authority, commission or instrumentality or court having jurisdiction over the Corporation or any of its Subsidiaries; or
  - (D) any of the properties, assets or operations of the Corporation or any of its Subsidiaries,and none of the Corporation or any of its Subsidiaries is in violation of any of the foregoing;
- (ix) nothing disclosed in minutes of the meetings of the board of directors of the Corporation for the period from May, 1996 to September, 1999 or directors' consent resolutions of the Corporation during the period from May, 1996 to September, 1999, all of which are missing from the record books of the Corporation, will cause the representations and warranties in this Agreement to be untrue, will result in a breach or violation of this Agreement or will otherwise prevent or prohibit the consummation by the Corporation or the Selling Shareholders of the transactions contemplated herein;
- (x) the Corporation has all requisite power, capacity and authority to execute and deliver each of the Preliminary Prospectus and the Final Prospectus and to file such documents with the Canadian Securities Regulators, and all necessary action has been taken by the Corporation to authorize the execution and delivery of the Preliminary Prospectus and the Final Prospectus and the filing of each of them under Canadian Securities Laws in each of the Qualifying Jurisdictions;

- (xi) no approval, authorization, consent or other order of, and no filing, registration or recording with, any court, regulatory body, government agency or other governmental authority is required in connection with the execution, delivery or performance by the Corporation of its obligations under this Agreement and the consummation by the Corporation of the transactions contemplated herein, except for those which are disclosed in the Prospectus or may be required under the Canadian Securities Laws, blue sky laws of any state of the United States, or the rules of the TSX and which will have been obtained on or prior to the Closing Time;
- (xii) to the knowledge of the Corporation, no Canadian Securities Regulator, stock exchange or comparable authority has issued any order preventing or suspending the use or effectiveness of the Preliminary Prospectus, the Final Prospectus, or any Supplementary Materials or preventing, ceasing or suspending the distribution of the Shares, nor instituted proceedings for that purpose and, to the knowledge of the Corporation, no such proceedings are pending or contemplated;
- (xiii) the Financial Statements present fairly in all material respects, the assets, liabilities, financial position, income, changes in cash flow, changes in shareholders' equity and the results of operations of the Corporation and its Subsidiaries as at the dates of and for the periods covered by such Financial Statements and such Financial Statements have been prepared in conformity with Canadian generally accepted accounting principles and any applicable Canadian laws, rules or regulations applied on a consistent basis throughout the periods involved; the other Financial Information contained in the Prospectus presents fairly in all material respects, the information shown therein and has been compiled on a basis consistent with that of the Financial Statements;
- (xiv) except as disclosed in the Prospectus, since December 31, 2003 there has been no material change (actual, contemplated or threatened) in the condition (financial or otherwise), earnings, position, value, operation, properties, business, results of operations or prospects of the Corporation or its Subsidiaries, and the debt, business and material property of the Corporation and its Subsidiaries conform in all material respects to the descriptions thereof contained in the Prospectus; and none of the Corporation or its Subsidiaries has paid or declared any dividend or distribution of any kind on any class of its securities;
- (xv) to the Corporation's knowledge, KPMG LLP, auditors to the Corporation, are independent with respect to the Corporation within the meaning of the *Canada Business Corporations Act* and applicable Canadian Securities Laws, and, to the best of the Corporation's knowledge, there has not been any reportable disagreement (within the meaning of National Policy Statement No. 31 of the Canadian Securities Regulators) between the Corporation and KPMG LLP;
- (xvi) Computershare Investor Services Inc. at its principal offices in Vancouver and Toronto, will have been, at the Closing Date, duly appointed as the registrar and transfer agent in respect of the Shares;
- (xvii) the TSX has conditionally approved the listing of the Shares, subject to the filing of certain documentation with the TSX and the payment of applicable listing fees;
- (xviii) upon filing of the Prospectus and at the Closing Time, the Corporation will be a reporting issuer or the equivalent thereof in each Qualifying Jurisdiction where such

concept exists and will not be in default under the Securities Laws of any Qualifying Jurisdiction;

- (xix) the form and terms of the certificate for the Shares have been approved and adopted by the Board of Directors of the Corporation, comply with all applicable laws and the requirements of the TSX and do not conflict with the articles or by-laws of the Corporation;
- (xx) all the Shares to be issued by the Corporation to the Underwriters hereunder will at their respective Closing Time have been duly authorized for issuance and duly and validly issued and will, upon payment of the Purchase Price, be fully paid and non-assessable and will conform to the description thereof contained in the Prospectus;
- (xxi) the Corporation does not have any subsidiary other than the Subsidiaries and, except as disclosed in the Financial Statements, does not have any investment in any person or entity other than the Subsidiaries; upon completion of the transactions contemplated herein, all of the issued and outstanding securities of each Subsidiary will have been duly authorized and validly issued and are fully paid and non-assessable and, except for the Xantrex US Exchangeable Shares, are owned, directly or indirectly, by or on behalf of the Corporation, free and clear of any security interest, mortgage, pledge, lien, encumbrance, claim or equity; and none of the outstanding securities of each of the Subsidiaries was issued in violation of the pre-emptive or other similar rights of any shareholder of such Subsidiary;
- (xxii) the Additional Shares to be sold by the Selling Shareholders under this Agreement have been duly authorized by the Corporation and are validly issued and fully paid and non-assessable; the Additional Shares conform to the description thereof contained in the Prospectus and such description conforms to the rights set forth in the instruments defining the same;
- (xxiii) the sale of the Additional Shares by the Selling Shareholders under this Agreement will not, as of the Closing Time, be subject to any pre-emptive or other similar contractual rights in favour of any shareholder of the Corporation and, to the knowledge of the Corporation, no person, firm or corporation, other than the Underwriters pursuant to this Agreement, will have at the Closing Time any agreement or any option, right or privilege (whether pre-emptive or contractual) capable of becoming an agreement, for the purchase of such Additional Shares from the Selling Shareholders;
- (xxiv) except for the registration rights agreement made by the Corporation in favour of OCM Principal Opportunities Fund, L.P., on the Closing Date, there will be no persons with registration rights or other similar rights to have any securities of the Corporation registered or qualified for distribution pursuant to any Canadian Securities Laws, the 1933 Act or the laws, rules or regulations of any other country and no person or entity holds any anti-dilution rights with respect to any securities of the Corporation, except as have been waived in respect of the sale of the Shares under this Agreement;
- (xxv) (A) no event of default, and no event which, after the giving of notice or the lapse of time or both, would constitute an event of default, has occurred and is outstanding under any agreement or instrument relating to the indebtedness for borrowed money of the Corporation or any of its Subsidiaries, and (B) none of the execution, delivery and performance by the Corporation of this Agreement or the consummation by the

Corporation of the transactions contemplated herein result in or will result in any default, give rise to the acceleration of any debt under any agreement to which the Corporation or any of its Subsidiaries is a party or give the holder of any note, debenture or other evidence of indebtedness of the Corporation or any of its Subsidiaries the right to require the repurchase, redemption or repayment of all or a portion of any indebtedness of the Corporation or any of its Subsidiaries;

- (xxvi) except as disclosed in the Prospectus, there is no action, suit, proceeding or investigation at law or in equity before any court or before or by any federal, provincial, state, municipal or other governmental commission, board, agency or body, domestic or foreign, pending or, to the knowledge of the Corporation, threatened (and the Corporation does not know of any basis therefor) to which the Corporation or any of its Subsidiaries is a party, or involving the assets, properties or business of the Corporation or any of its Subsidiaries, nor are there any matters under discussion with any such governmental commission, board, agency or body, relating to taxes, governmental charges or assessments which would be required to be disclosed in the Prospectus, or which could, individually or in the aggregate, materially adversely affect the value or the operation of such assets or properties or the business, results of operations, prospects or condition (financial or otherwise) of the Corporation and its Subsidiaries, taken as a whole, or the consummation of the transactions contemplated in this Agreement or the performance by the Corporation of its obligations hereunder, or which questions the validity of the sale or delivery of the Shares in connection with this Agreement or the validity of any other action taken or to be taken by the Corporation in connection with this Agreement;
- (xxvii) each of the Corporation and the Subsidiaries has generally enjoyed a satisfactory employer-employee relationship with its employees and is in compliance with all the material provisions of all federal, state, provincial, local and foreign laws and regulations respecting employment and employment practices, terms and conditions of employment and wages and hours (collectively, "**Employment Laws**"); there is no material pending investigation, inquiry or, to the Corporation's knowledge, claim involving the Corporation or any of its Subsidiaries by or before any governmental authority or body of any province of Canada or any other country responsible for the enforcement of any Employment Law; no grievance or arbitration proceeding is pending and no labour dispute with the employees of the Corporation or its Subsidiaries exists or, to the knowledge of the Corporation, is imminent, and none has ever occurred; the Corporation is not aware of any existing or imminent labour disturbance by the employees of any of its principal suppliers, manufacturers, customers or contractors; no union has been accredited or otherwise designated to represent any employees of the Corporation or any of its Subsidiaries and, to the Corporation's knowledge, no accreditation request or other representation question is pending with respect to the employees of the Corporation or any of its Subsidiaries, and no collective agreement or collective bargaining agreement or modification thereof has expired or is in effect in any of the Corporation's facilities and none is currently being negotiated by the Corporation or the Subsidiaries;
- (xxviii) the Corporation or its Subsidiaries owns or possesses, or can acquire on reasonable terms, adequate patents, patent rights, licenses, inventions, copyrights, know-how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks, trade names or other intellectual property (collectively, "**Intellectual Property**") necessary to

carry on the business now operated by it, and, except as disclosed in the Prospectus or to the Underwriters in connection with the Offering, neither the Corporation nor any of its Subsidiaries has received any notice nor is it otherwise aware of any infringement of or conflict with asserted rights of others with respect to any Intellectual Property or of any facts or circumstances which would render any Intellectual Property invalid or inadequate to protect the interest of the Corporation therein;

- (xxix) (A) each of the Corporation and its Subsidiaries possesses such permits, certificates, licenses, approvals, consents and other authorizations (collectively, "**Governmental Licenses**") issued by the appropriate federal, provincial, state, local or foreign regulatory agencies or bodies necessary to conduct the business now operated by it, except for such Governmental Licences which, if not possessed by the Corporation or any of its Subsidiaries, would not individually or in the aggregate affect materially the business of the Corporation; (B) the Corporation and its Subsidiaries are in compliance with the material terms and conditions of all such Governmental Licenses; (C) to the best of the Corporation's knowledge, all of the Governmental Licenses are valid and in full force and effect; and (D) none of the Corporation or any of its Subsidiaries has received any notice of proceedings relating to the revocation or modification of any such Governmental Licenses;
- (xxx) none of the Corporation or any of its Subsidiaries owns any real estate property; all of the leases and subleases of real property material to the business of the Corporation and its Subsidiaries and under which the Corporation or any of its Subsidiaries holds an interest in the facilities described in the Prospectus, are in full force and effect, and none of the Corporation or its Subsidiaries has any notice of any material claim of any sort that has been asserted by anyone adverse to the rights of the Corporation or any of its Subsidiaries under any of the leases or subleases mentioned above, or affecting or questioning the rights of the Corporation or any of its Subsidiaries to the continued possession of the leased or subleased, premises under any such lease or sublease;
- (xxxix) to the Corporation's knowledge, (A) none of the Corporation or its Subsidiaries is in violation of any material provision of any federal, provincial, state or local statute, law, regulation or ordinance relating to pollution, the protection of human health or the environment (collectively, "**Environmental Laws**"), (B) each of the Corporation and its Subsidiaries has all permits, authorizations and approvals required under any applicable Environmental Laws, except for such permits, authorizations and approvals which, if not maintained by the Corporation or any of its Subsidiaries, would not have a material adverse effect on the business of the Corporation, (C) there are no pending or, to the knowledge of the Corporation, threatened administrative, regulatory or judicial actions, suits, claims, liens, notices of non-compliance or violation, investigation or proceedings relating to any Environmental Law against the Corporation or any of its Subsidiaries, and (D) there are no events or circumstances that could reasonably be expected to form the basis of an order for clean-up or remediation, action, suit or proceeding by any private party or governmental body or agency, against or materially affecting the Corporation or any of its Subsidiaries relating to any Environmental Laws;
- (xxxixii) each of the Corporation and its Subsidiaries has filed all necessary Canadian and U.S. federal, state, provincial, local and foreign income, payroll, franchise and other tax returns and has paid all taxes shown as due thereon or with respect to any of its properties or any transactions to which it was a party and established adequate reserves for such taxes which are not due and payable and, except as disclosed in the Prospectus,

there is no tax deficiency that has been, or to the knowledge of the Corporation is likely to be, asserted against the Corporation or any of its properties or assets;

- (xxxiii) the Corporation is insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are customary in the businesses in which the Corporation is engaged; the Corporation has no reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a reasonable cost;
- (xxxiv) the Corporation and its Subsidiaries are in compliance with, and conduct their businesses in conformity with, all applicable laws, rules and regulations (whether federal, state, provincial or local) of each jurisdiction in which it carries on business or the rules of any court or governmental agency or body, except where non-compliance with any such laws, rules or regulations or the rules of any such court or governmental agency or body would not have a material adverse effect on the assets, properties, business, results of operations, prospects or condition (financial or otherwise) of the Corporation and its Subsidiaries as a whole;
- (xxxv) the Corporation and its Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurances that (A) transactions are executed in accordance with management's general or specific authorization; (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with Canadian generally accepted accounting principles and to maintain accountability for assets; (C) access to assets is permitted only in accordance with management's general or specific authorization; and (D) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences;
- (xxxvi) other than as contemplated by this Agreement or as disclosed in the Prospectus, there is no broker, finder or other party that is entitled to receive from the Corporation or its Subsidiaries any brokerage or finder's fee or other fee or commission as a result of any of the transactions contemplated by this Agreement;
- (xxxvii) except as disclosed in the Prospectus, none of the directors, officers or employees of the Corporation or any of its Subsidiaries, any person who owns, directly or indirectly, more than 10% of any class of securities of the Corporation or securities of any person exchangeable for more than 10% of any class of securities of the Corporation, or any associate or affiliate of any of the foregoing, had in the past three years or has any material interest, direct or indirect, in any material transaction or any proposed material transaction with the Corporation or its Subsidiaries which, as the case may be, materially affects, is material to or will materially affect the Corporation and the Subsidiaries, taken as a whole; and
- (xxxviii) to the knowledge of the Corporation, after due inquiry, except as disclosed in writing to the Underwriters or in the Prospectus, the Corporation is not a party to any contract, agreement or understanding with any officer, director, employee or any other person not dealing at arm's length with the Corporation which is required to be disclosed by Canadian Securities Laws.

(c) **Lock-up Agreements**

The Corporation will use its reasonable best efforts to ensure that those persons listed in Schedule C hereto execute and deliver to the Corporation a lock-up agreement in the form indicated opposite their name in Schedule C (and attached as Schedule D or Schedule E).

(d) **Unanimous Shareholders' Agreement**

The Corporation represents and warrants that all the rights and obligations under the Unanimous Shareholders' Agreement, other than any rights or obligations under any provision thereof which by its terms will survive termination, will terminate upon completion of the Closing, effective immediately prior to Closing of the sale of Purchased Shares.

(e) **Form D**

To the extent that any Shares are sold in the United States pursuant to Regulation D, the Corporation will file a notice with the SEC on Form D in accordance with Rule 503 under the 1933 Act.

10. **Representations, Warranties and Covenants of the Selling Shareholders.**

(a) **Content of Documents Filed**

The filing with Canadian Securities Regulators of the Preliminary Prospectus, Final Prospectus and any Supplementary Materials will constitute a representation and warranty by each of the Selling Shareholders to the Underwriters that to the best of their knowledge as at their respective dates and the date of filing and at all times subsequent thereto up to and including the Closing Time:

- (i) all information and statements (except statements relating solely to the Underwriters and provided by the Underwriters) contained in the Prospectus and Supplementary Materials are true and correct and contain no misrepresentation and constitute full, true and plain disclosure of all material facts relating to the Corporation and its Subsidiaries as a whole, such Selling Shareholder and the Shares;
- (ii) no material fact or information has been omitted from the Prospectus or Supplementary Materials (except facts or information relating solely to the Underwriters and provided by the Underwriters) which is required to be stated therein or is necessary to make the statements or information contained therein not misleading in light of the circumstances under which they were made; and
- (iii) the Prospectus and Supplementary Materials comply fully with the requirements of Canadian Securities Laws.

Such filings will also constitute the Selling Shareholders' consent to the Underwriters' use of the Prospectus and any Supplementary Materials in connection with the distribution of the Additional Shares to be sold by such Selling Shareholders in the Qualifying Jurisdictions in compliance with this Agreement.

(b) **Other Matters**

Each of the Selling Shareholders represents and warrants to the Underwriters that, and acknowledges that the Underwriters are relying upon such representations and warranties in purchasing and distributing the Additional Shares of the Selling Shareholders, if applicable:

- (i) (A) the Selling Shareholder has good and marketable title to the Additional Shares to be sold hereunder by it, free and clear of any mortgage, lien, charge or encumbrance of any kind, other than the Over-Allotment Option granted to the Underwriters pursuant to this Agreement; (B) the sale of the Additional Shares hereunder by such Selling Shareholder will not as of the Closing Time be subject to any pre-emptive or other similar contractual rights and no person, firm or corporation will have as of the Closing Time any agreement, option or right or privilege (whether pre-emptive or contractual) capable of becoming an agreement or option, for the purchase of such Additional Shares from such Selling Shareholder; (C) the Selling Shareholder will have as of the Closing Time the full right, power and authority to sell, assign, transfer and deliver the Additional Shares to be sold by such Selling Shareholder; and (D) upon delivery of the Additional Shares and payment of the Purchase Price as herein contemplated, the Underwriters will obtain good and marketable title to the Additional Shares purchased by them from the Selling Shareholder, free and clear of any mortgage, lien, charge or encumbrance or other restriction on transfer of any kind;
- (ii) (A) the Selling Shareholder is the registered holder and beneficial owner of the Additional Shares to be sold and delivered by it, (B) such Additional Shares are certificated securities in registered form and are not held in any securities account or by or through any securities intermediary, and (C) the certificate(s) evidencing such Additional Shares are readily available for delivery to the Underwriters at the Closing;
- (iii) except where the Selling Shareholder is an individual, the Selling Shareholder is duly organized and validly existing under the laws of its jurisdiction of organization;
- (iv) the Selling Shareholder has the requisite power, authority and capacity to enter into and deliver this Agreement and to perform the transactions contemplated herein to be performed by it;
- (v) the Selling Shareholder is not insolvent or subject to any proceeding under the *Bankruptcy and Insolvency Act* (Canada), *Companies' Creditors Arrangement Act* (Canada), *United States Code of Bankruptcy* or any similar insolvency legislation or any equivalent law in Canada, the United States or elsewhere, and the completion of the transactions contemplated herein will not render the Selling Shareholder subject to bankruptcy, insolvency, reorganization and other laws of general application relating to or affecting creditors' rights and to general principles of equity;
- (vi) other than the Unanimous Shareholders' Agreement, there is no agreement in force or effect which in any manner affects or will affect the voting control of any Shares of the Selling Shareholder;
- (vii) the execution, delivery and performance by the Selling Shareholder of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by and on behalf of the Selling Shareholder and this Agreement constitutes a legal, valid and binding obligation of the Selling Shareholder, enforceable against the Selling

Shareholder in accordance with its terms, except as enforcement hereof may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or similar laws affecting the rights of creditors generally and except as limited by the application of equitable principles when equitable remedies are sought and subject to the fact that rights of indemnity and contribution may be limited by applicable law;

- (viii) the Selling Shareholder is not in breach or violation of, and the execution, delivery and performance by the Selling Shareholder of its obligations under this Agreement and the consummation by the Selling Shareholder of the transactions contemplated herein will not result in any breach or violation of, or be in conflict with, or constitute a default under, or create a state of facts which after notice or lapse of time, or both, would constitute a default under, or result in the creation or imposition of any mortgage, lien, charge or encumbrance upon the Additional Shares of the Selling Shareholder set forth in Schedule A under:
  - (A) any term or provision of the constating documents or by-laws of the Selling Shareholder if the Selling Shareholder is not an individual;
  - (B) any resolution of the directors, shareholders or other governing body of the Selling Shareholder if the Selling Shareholder is not an individual;
  - (C) any material contract, mortgage, note, indenture, joint venture or partnership arrangement, agreement (written or oral), instrument or lease, or any statute, rule, licence, regulation, judgment, decree, order of any government, governmental, regulatory or administrative agency, authority, commission or instrumentality or court having jurisdiction over the Selling Shareholder;
- (ix) no approval, authorization, consent or other order of, and no filing, registration or recording with, any court, regulatory body, government agency or other governmental authority is required in connection with the execution, delivery or performance by the Selling Shareholder of its obligations under this Agreement and the consummation of the transactions contemplated herein, except for those which may be disclosed in the Prospectus or may be required under the Canadian Securities Laws, Canadian tax laws, the 1933 Act, blue sky laws of any state of the United States, or the rules of the TSX and will have been obtained on or prior to the Closing Time;
- (x) the Selling Shareholder has not taken and will not take, directly or indirectly, any action designed to, or which might reasonably be expected to, cause or result in stabilization or manipulation of the price of the Shares; and
- (xi) other than the Prospectus, the Selling Shareholder has not distributed and will not distribute any prospectus, offering memorandum or other offering material in connection with the Offering.

(c) **Lock-up Agreements**

Each Selling Shareholder will, prior to Closing, execute a letter substantially in the form indicated opposite its name in Schedule C (and attached hereto as Schedule D or Schedule E) and will comply with the terms and conditions contained therein.

11. **Changes.**

(a) **Change of Closing Date**

Subject to the termination provisions contained in paragraph 20, if a material change or a change in a material fact occurs prior to the Closing Date, the Closing Date will be, unless the Corporation and the Underwriters otherwise agree in writing or unless otherwise required under Canadian Securities Laws, the fifth Business Day following the later of:

- (i) the date on which all applicable filings or other requirements of Canadian Securities Laws with respect to such material change or change in a material fact have been complied with in all Qualifying Jurisdictions and any appropriate MRRS decision documents obtained for such filings and notice of such filings from the Corporation or its counsel have been received by the Underwriters; and
- (ii) the date upon which the commercial copies of any Supplementary Materials have been delivered in accordance with paragraph 8(d).

(b) **Material Change During Distribution**

During the period from the date of this Agreement to the completion of distribution of the Shares under the Prospectus, the Corporation will promptly notify the Underwriters and the Selling Shareholders in writing of:

- (i) any material change (actual, anticipated, contemplated or threatened) in respect of the Corporation;
- (ii) any material fact which has arisen or has been discovered and would have been required to have been stated in the Prospectus, the U.S. Offering Memorandum or any Supplementary Materials had the fact arisen or been discovered on, or prior to, the date of such documents; and
- (iii) any change in any other material fact (which for the purposes of this Agreement will be deemed to include the disclosure of any previously undisclosed material fact) contained in the Prospectus, the U.S. Offering Memorandum or any Supplementary Materials which fact or change is, or may be, of such a nature as to render any statement in the Prospectus, the U.S. Offering Memorandum or Supplementary Materials misleading or untrue or which would result in a misrepresentation therein or which would result in the Prospectus, the U.S. Offering Memorandum or Supplementary Materials not complying (to the extent that such compliance is required) with Canadian Securities Laws.

During the period from the date of this Agreement to the completion of distribution of the Shares under the Prospectus, each Selling Shareholder will promptly notify the Underwriters in writing of the occurrence of any fact or change described in paragraphs 11(b)(i), (ii) and (iii) above as such fact or change relates to such Selling Shareholder or any of the statements or information relating thereto or to the Additional Shares to be sold by such Selling Shareholder contained in the Prospectus or any Supplementary Materials.

The Corporation and the Selling Shareholders will promptly, and in any event within any applicable time limitation, comply, to the satisfaction of the Underwriters, with all applicable filings and other requirements under the Canadian Securities Laws as a result of such fact or change; provided that the

Corporation will not file any Supplementary Materials without first obtaining the approval of the Underwriters, after consultation with the Underwriters with respect to the form and content thereof, which approval will not be unreasonably withheld. The Corporation and the Selling Shareholders will in good faith discuss with the Underwriters any fact or change in circumstances (actual, anticipated, contemplated or threatened) which is of such a nature that there is reasonable doubt whether written notice need be given under this paragraph.

**(c) Change in Canadian Securities Laws**

If during the period of distribution of the Shares there will be any change in Canadian Securities Laws which, in the reasonable opinion of the Underwriters, requires the filing of Supplementary Materials, the Corporation will, to the satisfaction of the Underwriters, promptly prepare and file such Supplementary Materials with the Canadian Securities Regulator in each of the Qualifying Jurisdictions where such filing is required.

**12. Services Provided by Underwriters and Underwriting Fees.** In consideration for the Underwriters' services in acting as financial advisors to the Corporation and the Selling Shareholders, assisting in the preparation of the Prospectus, forming and managing banking, selling or other groups for the sale of the Shares, distributing the Shares, both directly and through other registered dealers as brokers, and performing administrative work in connection with the distribution of the Shares, the Corporation agrees to pay the Underwriters at the Closing Time the Corporation's Underwriting Fee and the Selling Shareholders agree to pay the Selling Shareholders' Underwriting Fee at the Closing Time. The Underwriting Fees will be payable as provided for in paragraph 13.

**13. Delivery of Purchase Price, Underwriting Fees and Certificates.** The purchase and sale of the Purchased Shares will be completed at the Closing Time on the Closing Date and the purchase and sale of the Additional Shares will be completed at the Closing Time on each Option Closing Date at the offices of Stikeman Elliott LLP in Vancouver, British Columbia or at such other place as the Underwriters and the Corporation may agree upon.

At the Closing Time, the Corporation and, if applicable, the Selling Shareholders will (i) duly and validly deliver to the Underwriters one or more definitive share certificate(s) representing the Purchased Shares or the Additional Shares, as the case may be, to be acquired from it on that Closing Date or Option Closing Date, registered in the name of RBC, as nominee on behalf of the Underwriters, or in such other name or names as RBC may notify the Corporation or Selling Shareholder in writing not less than 24 hours prior to such Closing Time, and (ii) pay the respective Underwriting Fees due from the Corporation or Selling Shareholder to the Underwriters. The Underwriters, jointly and not severally, will pay to the Corporation or Selling Shareholders the Purchase Price for the respective Purchased Shares or the Additional Shares. The Purchase Price for the Purchased Shares, less the Corporation's Underwriting Fee thereon, will be paid in immediately available funds in Toronto, by electronic or wire transfer, as may be agreed upon by RBC and the Corporation, acting reasonably. The Purchase Price for the Additional Shares less the Underwriting Fees thereon will be paid in immediately available funds in Toronto or Vancouver, by certified cheque or electronic or wire transfer, as may be agreed upon by RBC and the Corporation or by RBC and the Selling Shareholders, as the case may be. RBC will furnish a receipt for such definitive certificate(s) and the Corporation and the Selling Shareholders, respectively will furnish a receipt for the portion of the Purchase Price received by them.

It is understood that each Underwriter has authorized RBC, for its account, to accept delivery of, confirm receipt of, and make payment of the Purchase Price for the Shares which it has agreed to purchase. RBC, individually and not as representative of the Underwriters, may (but will not be obligated to) make payment of the Purchase Price for the Shares to be purchased by any Underwriter whose funds have not

been received by the Closing Time, but such payment will not relieve such Underwriter from its obligations hereunder.

14. **Delivery of Certificates to Transfer Agent.** Each of the Corporation and the Selling Shareholders will, prior to each Closing Time, make all necessary arrangements for the exchange of the definitive certificate(s) representing the Shares to be purchased from it at that Closing Time, at the principal offices of Computershare Investor Services Inc. in the City of Vancouver for (i) in the case of any Shares distributed in Canada pursuant to the Prospectus and any Shares sold in the United States pursuant to Rule 144A, one or more global share certificates representing such number of Shares registered in the name of RBC, as nominee on behalf of the Underwriters, or such other name or names as will be designated by RBC not less than 24 hours prior to that Closing Time; provided, however, that the global share certificates representing Shares sold in the United States pursuant to Rule 144A will bear a distinct CUSIP number and the legends included in Section 6(f) of Schedule B to this Agreement and (ii) in the case of any Purchased Shares sold in the United States in reliance on Regulation D, for share certificates representing such Shares registered in such names as will be designated by RBC not less than 24 hours prior to that Closing Time; provided, however, that any share certificate representing Shares sold in the United States pursuant to Regulation D the legends included in Section 6(f) of Schedule B to this Agreement. The Corporation will pay all fees and expenses payable to Computershare Investor Services Inc. in connection with the preparation, delivery, certification and exchange of the definitive share certificates contemplated by this paragraph 14 and the fees and expenses payable to or incurred by Computershare Investor Services Inc. in connection with the initial or additional transfers as may be required in the course of the distribution of the Shares.

15. **Underwriters' Obligation to Purchase.** The Underwriters' obligation to purchase Shares at each Closing Time will be subject to the accuracy of the representations and warranties of the Corporation and of the Selling Shareholders, respectively, contained in this Agreement and in certificates required to be delivered by the Corporation and the Selling Shareholders hereunder as of the date when such representations and warranties were made and as of the applicable Closing Time, the performance by the Corporation and the Selling Shareholders, respectively, of their respective obligations under this Agreement and the following conditions:

(a) **Delivery of Opinions**

- (i) the Underwriters will have received at the Closing Time a legal opinion dated the Closing Date or the Option Closing Date, as the case may be, in form and substance satisfactory to counsel to the Underwriters, addressed to the Underwriters and counsel to the Underwriters from Stikeman Elliott LLP, counsel to the Corporation, as to the laws of Canada and the Qualifying Jurisdictions as well as the laws of the jurisdiction of incorporation or formation of each Subsidiary, which counsel in turn may rely upon the opinions of local counsel where they deem such reliance proper as to the laws other than those of Canada, British Columbia, Alberta, Ontario and Quebec and, as to matters of fact, on certificates of the auditors of the Corporation, public and stock exchange officials and officers of the Corporation, with respect to the following:
  - (A) the due incorporation or formation, valid existence and good standing of the Corporation under the laws of its jurisdiction of incorporation;
  - (B) the due incorporation, valid existence and good standing of each of the Subsidiaries under the laws of its jurisdiction of incorporation;

- (C) the authorized and issued capital of the Corporation, including all outstanding options, rights or privileges to acquire securities of the Corporation or securities convertible into or exchangeable for securities of the Corporation, including the Xantrex US Exchangeable Shares;
- (D) the authorized and issued capital of each of the Subsidiaries including all outstanding options, rights or privileges to acquire securities of each of the Subsidiaries or securities convertible into or exchangeable for securities of each of the Subsidiaries;
- (E) the registered owners of the issued capital of each of the Subsidiaries, excluding the Xantrex US Exchangeable Shares;
- (F) that the Corporation has the requisite corporate power and capacity to execute and deliver this Agreement and to perform the transactions contemplated herein to be performed by it and each of the Corporation and its Subsidiaries has the requisite corporate power and capacity to own, lease and to operate its property and assets and to carry on its business as currently carried on or as currently proposed to be carried on in the Prospectus;
- (G) that all necessary corporate action has been taken by the Corporation to authorize the execution and delivery of each of the Preliminary Prospectus and the Final Prospectus and, if applicable, any Supplementary Materials and the filing of such documents under the Canadian Securities Laws in each of the Qualifying Jurisdictions;
- (H) that the Shares purchased and sold at that Closing Time have been duly authorized and validly issued by the Corporation and are outstanding as fully paid and non-assessable shares;
- (I) that the execution, delivery and performance by the Corporation of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by the Corporation, this Agreement has been duly executed and delivered by the Corporation and this Agreement constitutes a legal, valid and binding obligation of the Corporation, enforceable against the Corporation in accordance with its terms, except as enforcement hereof may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or similar laws affecting the rights of creditors generally and except as limited by the application of equitable principles when equitable remedies are sought; provided that such counsel may express no opinion as to the enforceability of the indemnity provisions of paragraph 21 and the contribution provisions of paragraph 22;
- (J) that the execution, delivery and performance by the Corporation of this Agreement and the consummation by the Corporation of the transactions contemplated herein will not result in any breach or violation of, or be in conflict with, or constitute a default under, or create a state of facts which after notice or lapse of time, or both, would constitute a default under, or result in the creation or imposition of any mortgage, lien, charge or encumbrance upon any property or assets of the Corporation or its Subsidiaries under:

- (1) any term or provision of the constating documents or by-laws of the Corporation or its Subsidiaries;
  - (2) any resolution of the directors or shareholders of the Corporation; or
  - (3) any arrangement (written or oral) or instrument listed in a schedule to such opinion, which schedule shall include such material agreements or instruments by which the Corporation, any of its Subsidiaries or any of the properties, assets or operations of the Corporation or its Subsidiaries is bound, as determined by the Corporation or the Underwriters, acting reasonably; or
  - (4) any statute, rule, licence, regulation, judgment, decree, order of any government, governmental, regulatory or administrative agency, authority, commission or instrumentality or court having jurisdiction over the Corporation or its Subsidiaries or any of the properties, assets or operations of the Corporation or its Subsidiaries;
- (K) the attributes of the Shares conform in all material respects to the description thereof contained in the Prospectus;
- (L) to the best of such counsel's knowledge, none of the Shares have been issued in violation of any pre-emptive rights of any shareholder of the Corporation;
- (M) that the Shares, (w) subject to general investment provisions, are eligible investments under the statutes listed under the heading "Eligibility for Investment" in the Prospectus without the investor having recourse to the so-called "basket" provisions of such statutes, (x) are qualified investments for a trust governed by a registered retirement savings plan, registered retirement income fund, registered education savings plan or deferred profit sharing plan under the *Income Tax Act* (Canada) and the regulations thereunder, and, (y) do not constitute foreign property for the purpose of Part XI of the *Income Tax Act* (Canada);
- (N) that such counsel has circulated to its members an inquiry as of the date of the Final Prospectus concerning claims or possible claims by or against the Corporation or any Subsidiary in respect of which its advice has been sought, and the responses such counsel has received to such inquiry do not identify any claims or possible claims which are not referred to in the Prospectus or which could, individually or in the aggregate, materially adversely affect the value or the operation of such assets or properties or the business, results of operations, prospects or condition (financial or otherwise) of the Corporation and the Subsidiaries, taken as a whole, or the consummation of the transactions contemplated in the Agreement or the performance by the Corporation of its obligations hereunder;
- (O) that the form and terms of the certificates representing the Shares of the Corporation comply with the requirements of the *Canada Business Corporations Act* and the rules of the TSX and have been duly approved, executed and delivered by the Corporation;

- (P) that Computershare Investor Services Inc. at its principal offices in the cities of Vancouver and Toronto has been duly appointed as the registrar and transfer agent in respect of the Common Shares of the Corporation, including the Shares;
  - (Q) that all documents have been filed, all requisite proceedings have been taken and all legal requirements have been fulfilled by the Corporation to, qualify the Shares for distribution and sale to the public in each of the Qualifying Jurisdictions through investment dealers or brokers registered under the applicable laws of the Qualifying Jurisdictions who have complied with the relevant provisions of such applicable laws;
  - (R) that the TSX has conditionally approved the listing of the Shares, subject to fulfilling all the requirements of the TSX by June 3, 2004;
  - (S) as to compliance with the laws of Quebec relating to the use of the French language in connection with the documents (including the Preliminary Prospectus, the Final Prospectus and Supplementary Materials) to be delivered to purchasers in Quebec; and
  - (T) as to all other legal matters reasonably requested by counsel to the Underwriters.
- (ii) the Underwriters will have received at the Closing Time a legal opinion dated the Closing Date or the Option Closing Date, as the case may be, in form and substance satisfactory to counsel to the Underwriters (and authorizing counsel to the Underwriters to rely thereon), addressed to the Underwriters, from counsel to the Selling Shareholders, which counsel in turn may rely upon the opinions of local counsel where they deem such reliance proper and, as to matters of fact, on certificates of the auditors of the Corporation, public and stock exchange officials and officers of the Corporation as to the following matters:
- (A) as to the due and valid existence and good standing of each of the Selling Shareholders under the laws of its jurisdiction of organization;
  - (B) that each Selling Shareholder that is a corporation has all requisite power and capacity under the laws of its jurisdiction of organization to execute and deliver this Agreement and to perform the transactions contemplated herein to be performed by it;
  - (C) that each Selling Shareholder that is a person has the full capacity under applicable laws to execute and deliver this Agreement and to perform the transactions contemplated herein to be performed by it;
  - (D) that the execution, delivery and performance by each Selling Shareholder of the Agreement and the consummation of the transactions contemplated herein to be performed by it have been duly authorized by such Selling Shareholder, this Agreement has been duly executed and delivered by each of the Selling Shareholders and the Agreement constitutes a legal, valid and binding obligation of each of the Selling Shareholders, enforceable against each of the Selling Shareholders in accordance with its terms, except as enforcement hereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and except as limited by the application

of equitable principles when equitable remedies are sought; provided that such counsel may express no opinion as to the enforceability of the indemnity provisions of paragraph 21 and the contribution provisions of paragraph 22;

- (E) no filing, proceeding, approval, consent or authorization of any government or governmental agency is required to permit each of the Selling Shareholders to execute and deliver this Agreement and perform its obligations hereunder;
  - (F) all steps and proceedings have been taken by each of the Selling Shareholders and the Corporation to transfer the Additional Shares from each of the Selling Shareholders to the Underwriters;
  - (G) each of the Selling Shareholders is the registered owner of the Additional Shares set opposite its name in Schedule A; and
  - (H) as to all other legal matters reasonably requested by counsel to the Underwriters relating to the distribution of the Shares.
- (iii) The Underwriters will have received, at the times indicated below, a legal opinion in form and substance satisfactory to the Underwriters, addressed to the Underwriters from U.S. counsel to the Underwriters, Cravath, Swaine & Moore LLP:
- (A) at the Closing Time on the Closing Date, a legal opinion regarding the initial resale of the Shares by the Underwriters under Rule 144A of the 1933 Act and Regulation D under the 1933 Act; and
  - (B) at the Closing Time on the Option Closing Date, a legal opinion regarding the initial resale of the Shares by the Underwriters under Rule 144A of the 1933 Act.
- (iv) The Underwriters will have received at the Closing Time a legal opinion, dated the Closing Date, in form and substance satisfactory to the Underwriters, addressed to the Underwriters from Smart & Biggar LLP, Canadian patent and trademark counsel to the Corporation, which counsel may in turn rely upon the opinions of local counsel where they deem such reliance proper in connection with laws other than those of Canada regarding the intellectual property rights of the Corporation and its Subsidiaries.
- (v) The Underwriters will have received at the Closing Time a legal opinion, dated the Closing Date, in the form and substance satisfactory to the Underwriters, addressed to the Underwriters from Borden Ladner Gervais LLP, counsel to the Underwriters, regarding such matters as the Underwriters may reasonably request.

**(b) Delivery of Comfort Letter**

The Underwriters will have received at the Closing Time a letter dated the Closing Date or the Option Closing Date, as the case may be, in form and substance satisfactory to the Underwriters, addressed to the Underwriters and the directors of the Corporation from KPMG LLP, auditors to the Corporation, confirming the continued accuracy of the comfort letter to be delivered to the Underwriters pursuant to paragraph 8(a)(iv) with such changes as may be necessary to bring the information in such letter forward to a date not more than two Business Days prior to the Closing Time, which changes will be acceptable to the Underwriters.

(c) **Delivery of Certificates**

- (i) The Underwriters will have received at the Closing Time a certificate dated the Closing Date or the Option Closing Date, as the case may be, addressed to the Underwriters and counsel to the Underwriters and signed by appropriate officers of the Corporation, with respect to the constating documents of the Corporation, all resolutions of the board of directors of the Corporation relating to this Agreement, the incumbency and specimen signatures of signing officers of the Corporation and such other matters as the Underwriters may reasonably request.
- (ii) The Underwriters will have received at the Closing Time on each Option Closing Date from each Selling Shareholder, other than a Selling Shareholder who is an individual, one or more certificate(s) dated the Option Closing Date, as the case may be, addressed to the Underwriters and counsel to the Underwriters and signed by an officer duly authorized to act on behalf of such Selling Shareholder(s), with respect to the constating documents of such Selling Shareholder(s), the incumbency and specimen signatures of such signing officer(s) and such other matters as the Underwriters may reasonably request.
- (iii) The Underwriters will have received at the Closing Time a certificate dated the Closing Date or the Option Closing Date, as the case may be, addressed to the Underwriters and counsel to the Underwriters and signed on behalf of the Corporation by each of the Chairman and the Chief Executive Officer of the Corporation or other officers of the Corporation acceptable to the Underwriters, certifying for and on behalf of the Corporation after having made due inquiry and after having carefully examined the Prospectus and any Supplementary Materials and the U.S. Offering Memorandum, that:
  - (A) since the respective dates as of which information is given in the Prospectus as amended by any Supplementary Materials or in the U.S. Offering Memorandum, that (x) there has been no material change (actual, anticipated, contemplated or threatened in respect of the Corporation, and (y) no transaction has been entered into by any of the Corporation or any of its Subsidiaries which is material to the Corporation and its Subsidiaries on a consolidated basis, other than as disclosed in the Prospectus or the Supplementary Materials or in the U.S. Offering Memorandum, as the case may be;
  - (B) no order, ruling or determination having the effect of suspending the sale or ceasing the trading of the Common Shares or any other securities of the Corporation has been issued by any regulatory authority and is continuing in effect and no proceedings for that purpose have been instituted or are pending or, to the knowledge of such officers, contemplated or threatened under any of the Canadian Securities Laws or by any other regulatory authority;
  - (C) the Corporation has complied in all material respects with the terms and conditions of this Agreement on its part to be complied with up to the Closing Time;
  - (D) the representations and warranties of the Corporation contained in this Agreement are true and correct as of the Closing Time with the same force and effect as if made at and as of the Closing Time after giving effect to the transactions contemplated by this Agreement; and

- (E) such other matters as the Underwriters may reasonably request.
- (iv) The Underwriters will have received from each Selling Shareholder at the Closing Time one or more certificate(s) dated the Option Closing Date addressed to the Underwriters and counsel to the Underwriters and signed by the Selling Shareholder or by an officer duly authorized to act on behalf of such Selling Shareholder, certifying for and on behalf of such Selling Shareholder, after having carefully examined the Prospectus and any Supplementary Materials, that:
- (A) no order, ruling or determination having the effect of suspending the sale or ceasing the trading by the Selling Shareholder of the Additional Shares or securities generally has been issued by any regulatory authority and is continuing in effect and no proceedings for that purpose have been instituted or are pending or, to the knowledge of such officers, contemplated or threatened under any of the Canadian Securities Laws or by any other regulatory authority;
  - (B) such Selling Shareholder has complied in all material respects with the terms and conditions of this Agreement on its part to be complied with up to the Closing Time;
  - (C) the representations and warranties of such Selling Shareholder contained in this Agreement are true and correct as of the Closing Time with the same force and effect as if made at and as of the Closing Time after giving effect to the transactions contemplated by this Agreement; and
  - (D) such other matters as the Underwriters may reasonably request.

16. **Lock-Up Agreements.** At the date of this Agreement, the Underwriters will have received from each of the persons and entities named on Schedule C to this Agreement an irrevocable letter substantially in the applicable form attached as Schedule D or Schedule E and in respect of that number of shares indicated opposite the name of such person or entity in Schedule C duly signed and delivered by each such person or entity and all such letters shall be in full force and effect at the Closing Time.

17. **Unanimous Shareholders' Agreement.** The Underwriters will have received as of the Closing Time on the Closing Date evidence satisfactory to them and their counsel that all the rights and obligations of all parties under the Unanimous Shareholders' Agreement (except any rights and obligations which survive the termination of thereof in accordance with the terms thereof) have been terminated.

18. **Completion of Reorganization.** The Underwriters will have received as of the Closing Time on the Closing Date evidence satisfactory to them and their counsel that all transactions contemplated in the Prospectus under the heading "Reorganization" have been duly and properly executed and completed.

19. **Additional Documents.** The Underwriters will have been furnished with such documents and opinions as they may reasonably require for the purpose of enabling them to evidence the accuracy of any of the representations or warranties, or the fulfilment of any of the conditions, herein contained; and all proceedings taken by the Corporation and the Selling Shareholders in connection with the sale of the Shares as herein contemplated will be satisfactory in form and substance to RBC and counsel for the Underwriters, acting reasonably.

20. **Rights of Termination.**

(a) **Proceedings to Restrict Distribution**

If any inquiry, action, suit, investigation or other proceeding whether formal or informal is instituted, threatened or announced or any order is made by the TSX or by any federal, provincial, state, municipal or other governmental authority, commission, board, agency or instrumentality including any securities regulatory authority (other than an inquiry, action, suit, investigation or other proceeding or order based solely upon the activities or the alleged activities of any Underwriter) or any law or regulation is enacted or changed, which, in the opinion of any of the Underwriters, operates to prevent, suspend or restrict the distribution or trading of the Shares or materially and adversely affects or will materially and adversely affect the market price of the Shares, any of the Underwriters will be entitled, at its option and in accordance with paragraph 20(f), to terminate its obligations under this Agreement by notice to that effect given to the Corporation and the Selling Shareholders at or prior to the Closing Time.

(b) **Market Out Clause**

If at or prior to the Closing Time:

- (i) there should develop, occur or come into effect or existence any event, action, state, condition or major financial occurrence of national or international consequence (including, without limitation any outbreak of hostilities or escalation thereof) or any law, regulation, judgment or order which, in the opinion of any of the Underwriters, seriously and adversely affects, or involves, or will seriously affect, or involve, the financial markets or the business, prospects, operations or affairs of the Corporation and its Subsidiaries taken as a whole; or
- (ii) the state of the financial markets in Canada or elsewhere where it is planned to market the Shares is such that, in the reasonable opinion of the Underwriters (or any one of them), the Shares cannot be profitably marketed or it would not be advisable to complete the purchase of Shares;

any of the Underwriters will be entitled at its option, in accordance with paragraph 20(f), to terminate its obligations under this Agreement by written notice to that effect given to the Corporation and the Selling Shareholders, respectively at or prior to the Closing Time on the Closing Date or the Option Closing Date, respectively.

(c) **Material Change**

If prior to the Closing Time, there should occur any change (actual, contemplated or threatened) in the business, operations, assets or ownership of the Corporation (except described in the Prospectus under the heading "Reorganization"), or in the condition (financial or otherwise), earnings, liabilities (contingent or otherwise), business affairs or business prospects of the Corporation or a change in any fact which results or, in the reasonable opinion of the Underwriters (or any one of them), could reasonably be expected to result, in the purchasers of a material number of Shares exercising their right under applicable legislation to withdraw from their purchase of Shares or, in the reasonable opinion of the Underwriters (or any one of them), could reasonably be expected to have a significant adverse effect on the market price or value of the Shares, any Underwriter will be entitled at its option, in accordance with paragraph 20(f), to terminate its obligations under this Agreement by written notice to that effect given to the Corporation and the Selling Shareholders, respectively, at or prior to the Closing Time.

**(d) Non-Compliance With Conditions**

Each of the Corporation and the Selling Shareholders agrees that all terms and conditions in paragraph 15 will be construed as conditions and complied with insofar as they relate to acts to be performed or caused to be performed by it, that it will use its best efforts to cause such conditions to be satisfied, and that any breach or failure by the Corporation or any of the Selling Shareholders, respectively, to comply with any such conditions will entitle any of the Underwriters to terminate its obligations to purchase Shares by notice to that effect given to the Corporation and the Selling Shareholders at or prior to the Closing Time on the Closing Date or the Option Closing Date, respectively. Each Underwriter may waive, in whole or in part, or extend the time for compliance with, any terms and conditions without prejudice to its rights in respect of any other terms and conditions or any other or subsequent breach or non-compliance, provided that any such waiver or extension will be binding upon an Underwriter only if such waiver or extension is in writing and signed by the Underwriter.

**(e) Inquiry, Investigation or Other Proceeding**

If prior to the Closing Time:

- (i) any inquiry, investigation or other proceeding is commenced or any order is issued under or pursuant to any statute of Canada or of any province of Canada, or otherwise (other than an inquiry, investigation, proceeding or order based upon the activities or alleged activities of any of the Underwriters or the Selling Firms), or there is any change of law, or the interpretation or administration thereof, which in the reasonable opinion of the Underwriters operates to prevent or restrict the trading of the Shares or the distribution of the Shares; or
- (ii) an order will have been made by any securities regulatory authority which restricts in any manner the distribution of the Shares or trading in the Shares which remains outstanding for a sufficient length of time such that, in the reasonable opinion of the Underwriters, such order has materially adversely affected or may materially adversely affect the ability of the Underwriters to offer or to continue to offer the Shares for sale in the Qualifying Jurisdictions,

any of the Underwriters will be entitled at its option, in accordance with paragraph 20(f), to terminate its obligations under this Agreement by written notice to that effect given to the Corporation and the Selling Shareholders at or prior to the Closing Time.

**(f) Exercise of Termination Rights**

The rights of termination contained in paragraphs 20(a), 20(b), 20(c), 20(d) and 20(e) may be exercised by any of the Underwriters and are in addition to any other rights or remedies any of the Underwriters may have in respect of any default, act or failure to act or non-compliance by the Corporation or any of the Selling Shareholders in respect of any of the matters contemplated by this Agreement or otherwise. In the event of any such termination, there will be no further liability on the part of such Underwriter to the Corporation, on the part of the Corporation to such Underwriter, on the part of each of the Selling Shareholders to such Underwriter or on the part of such Underwriter to any of the Selling Shareholders, except in respect of any liability which may have arisen prior to or which may arise after such termination under paragraphs 20, 21 or 24. A notice of termination given by an Underwriter under paragraphs 20(a), 20(b), 20(c), 20(d) or 20(e) will not be binding upon any other Underwriter.

21. **Indemnity.**

(a) **Rights of Indemnity from the Corporation**

The Corporation agrees to indemnify and save harmless each of the Underwriters and each of their respective affiliates, directors, officers, employees, agents and shareholders (collectively, the “**Indemnified Parties**” and individually an “**Indemnified Party**”) from and against any and all liabilities, losses (other than losses of profit), costs, expenses, claims (including shareholder actions, derivative or otherwise), actions and damages, joint or several including, without limitation, all amounts paid to settle actions, suits, proceedings, investigations, claims or satisfy judgments or awards and all reasonable legal fees or other expenses incurred by such Underwriters in connection with preparing, defending or investigating any of the above (collectively, a “**Claim**”), which any Indemnified Party may suffer or incur or be subject to or otherwise involved, in any capacity insofar as such Claim is caused by, results from, arises out of or is based directly or indirectly from, or is a consequence of:

- (i) any statement or information contained in the Prospectus or any Supplementary Materials or in any certificate of the Corporation delivered pursuant to this Agreement (except a statement relating solely to the Underwriters provided by the Underwriters or to the Selling Shareholders provided by the Selling Shareholders or any of them, which contains or is alleged to contain a misrepresentation or is or is alleged to be untrue;
- (ii) any omission or alleged omission to state in the Prospectus, any Supplementary Materials, the U.S. Offering Memorandum or any certificate of the Corporation delivered pursuant to this Agreement any fact (except facts relating solely to the Underwriters provided by the Underwriters or any facts relating solely to, or furnished by or on behalf of, or any Selling Shareholder), whether material or not, required to be stated in such document or necessary to make any statement in such document not misleading, in light of the circumstances under which it was made;
- (iii) any order made or inquiry, investigation or proceedings commenced or threatened by any court, Canadian Securities Regulator, stock exchange or other competent authority based upon any untrue statement or omission or alleged untrue statement or alleged omission or any misrepresentation or alleged misrepresentation (except a statement or omission or alleged statement or omission relating solely to the Underwriters provided by the Underwriters or relating solely to the Selling Shareholders provided by the Selling Shareholders or any of them) contained in the Prospectus or any Supplementary Materials or based upon any failure to comply with the Canadian Securities Laws or the securities laws of any other country (other than any failure or alleged failure to comply by the Underwriters or any Selling Shareholder), preventing or restricting the trading in or the sale or distribution of the Shares in the Qualifying Jurisdictions;
- (iv) the non-compliance or alleged non-compliance by the Corporation with any of the Canadian Securities Laws, the 1933 Act, the 1934 Act and the rules and regulations thereunder, including the Corporation’s non-compliance with any statutory requirement to make any document available for inspection; or
- (v) any breach by the Corporation of its representations, warranties, covenants or obligations to be complied with under this Agreement.

**(b) Rights of Indemnity from the Selling Shareholders**

Subject to the exercise of the Over-Allotment Option and the sale of Additional Shares by the Selling Shareholders to the Underwriters as a result thereof, the Selling Shareholders:

- (i) severally agree to indemnify and save harmless each of the Indemnified Parties from and against any and all Claims which any Indemnified Party may suffer or incur or be subject to or otherwise involved, in any capacity insofar as such Claim is caused by, results from, arises out of or is based directly or indirectly from, or is a consequence of:
  - (A) any certificate of a Selling Shareholder delivered pursuant to this Agreement which contains or is alleged to contain a misrepresentation or is or is alleged to be untrue;
  - (B) any omission or alleged omission to state in any certificate of a Selling Shareholder delivered pursuant to this Agreement any fact required to be stated in such certificate or necessary to make any certificate not misleading in all material respects, in light of the circumstances under which it was made; or
  - (C) any breach by a Selling Shareholder of its representations, warranties, covenants or obligations to be complied with under this Agreement, except for the representations, warranties, covenants or obligations under paragraph 10(a); and
- (ii) jointly and severally agree to indemnify and save harmless each of the Indemnified Parties from and against any and all Claims which any Indemnified Party may suffer or incur or be subject to or otherwise involved, in any capacity insofar as such Claim is caused by, results from, arises out of or is based directly or indirectly from, or is a consequence of any breach by a Selling Shareholder of its representations, warranties, covenants or obligations to be complied with under paragraph 10(a).

The aggregate liability of the Selling Shareholders under this paragraph 21(b) will not exceed the gross proceeds from the Offering received by the Selling Shareholders.

**(c) Notification of Claims**

If any Claim is asserted against any Indemnified Party, such Indemnified Party will notify the Corporation and if applicable, the Selling Shareholders as soon as possible of the nature of such Claim (but the failure so to notify the Corporation or any Selling Shareholder of any potential Claim will not relieve the Corporation or any Selling Shareholder from any liability which it may have to any Indemnified Party to the extent that it is not materially prejudiced by that failure and in any event will not relieve the Corporation or any Selling Shareholder from any liability which it may have otherwise than on account of the indemnity provided in this Agreement). The defence of any suit brought to enforce such Claim will be conducted through legal counsel chosen by the Indemnified Party; provided, however, that the Corporation or the Selling Shareholders will be entitled to participate in such defence at its own expense. No settlement of any such Claim or admission of liability may be made by the Corporation or any Selling Shareholder without the prior written consent of the Indemnified Party, such consent not to be unreasonably withheld, unless such settlement, compromise or judgment: (i) includes an unconditional release of the Indemnified Party, from all liability arising out of such action or claim; or (ii) does not include a statement as to or an admission of fault, culpability or failure to act, by or on behalf of any Indemnified Party, the Corporation or any Selling Shareholder.

(d) **Right of Indemnity in Favour of Others**

With respect to any Indemnified Party who is not a party to this Agreement, the Underwriters will obtain and hold the rights and benefits of this paragraph in trust for and on behalf of such Indemnified Party.

22. **Contribution.**

(a) **Rights of Contribution**

In order to provide for a just and equitable contribution in circumstances in which the indemnity provided in paragraph 21 would otherwise be available in accordance with its terms but is, for any reason, held to be unavailable to or unenforceable by the Underwriters or enforceable otherwise than in accordance with its terms, the Corporation on the one hand and/or the Selling Shareholders, as applicable, on the other hand, severally as between the Corporation and the Selling Shareholders but jointly and severally as among the Selling Shareholders, will contribute to the aggregate of all Claims of a nature contemplated by paragraph 21 and suffered or incurred by any Indemnified Party, whether or not the Corporation, the Selling Shareholders or the Indemnified Party have been sued together or sued separately, (i) in such proportion as is appropriate to reflect the relative benefits received by the Corporation and/or the Selling Shareholders on the one hand, and the Underwriters on the other hand, from the Offering pursuant to this Agreement or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Corporation and/or the Selling Shareholders on the one hand, and the Underwriters on the other hand, in connection with the actions or omissions which resulted in such Claims, as well as any other relevant considerations, provided, however, that: (x) the Selling Shareholders will not in any event be liable to contribute, in the aggregate, any amounts in excess of the proceeds (net of the aggregate Underwriting Fees borne by the Selling Shareholders) from the Offering received by the Selling Shareholders; and (y) no party who has engaged in any fraud, fraudulent misrepresentation or gross negligence will be entitled to claim contribution from any person who has not engaged in such fraud, fraudulent misrepresentation or gross negligence.

The relative benefits received by the Corporation, the Selling Shareholders and the Underwriters in connection with the Offering pursuant to this Agreement will be deemed to be in the same respective proportions as the total net proceeds from the Offering pursuant to this Agreement (before deducting expenses) received by the Corporation, the Selling Shareholders and the total Underwriting Fee received by the Underwriters, bear to the aggregate gross proceeds of the Offering.

The relative fault of the Corporation, the Selling Shareholders and the Underwriters will be determined by reference to, among other things, whether any such untrue or alleged untrue statement or misrepresentation or omission or alleged omission relates to information supplied by the Corporation, the Selling Shareholders or the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Corporation, the Selling Shareholders and the Underwriters agree that it would not be just and equitable if contribution pursuant to this paragraph 22(a) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to above in this paragraph 22(a).

The Underwriters' respective obligations to contribute pursuant to this paragraph 22(a) are joint in the proportions set forth opposite their respective names in paragraph 25 and not several.

(b) **Rights of Contribution in Addition to Other Rights**

The rights to contribution provided in this paragraph will be in addition to and not in derogation of any other right to contribution which the Underwriters may have by statute or otherwise at law.

(c) **Notice**

If the Underwriters have reason to believe that a claim for contribution may arise, they will give the Corporation or the Selling Shareholders, as applicable, notice of such claim in writing, as soon as reasonably possible, but failure so to notify the Corporation or the Selling Shareholders will not relieve the Corporation or the Selling Shareholders, as the case may be, of any obligation which either of them may have to the Underwriters under paragraph 22(a) to the extent that it is not materially prejudiced by that failure and in any event will not relieve the Corporation or any Selling Shareholder from any liability which it may have otherwise than on account of the contribution provided in this Agreement.

(d) **Right of Contribution in Favour of Others**

With respect to this paragraph 22, the Corporation and the Selling Shareholders acknowledge and agree that the Underwriters are contracting on their own behalf and as agents for their affiliates, directors, officers, employees and agents.

23. **Severability.** If any provision of this Agreement is determined to be void or unenforceable in whole or in part, it will be deemed not to affect or impair the validity of any other provision of this Agreement and such void or unenforceable provision will be severable from this Agreement.

24. **Expenses.** Whether or not the transactions contemplated by this Agreement will be completed, except as specifically provided below, all expenses of or incidental to the sale and delivery of the Shares and all expenses of or incidental to all other matters in connection with the transaction set out in this Agreement will be borne by the Corporation directly including, without limitation, fees and expenses payable in connection with the qualification of the Shares for distribution, the fees and expenses of counsel to the Corporation, all fees and expenses of local counsel, all fees and expenses of the Corporation's accountants and auditors, all road show and marketing expenses and all costs incurred in connection with the preparation, printing and filing of the Prospectus, Supplementary Materials, certificates representing the Shares and any publicity material and all taxes thereon and all reasonable out-of-pocket of the Underwriters (including their travel expenses in connection with due diligence and marketing meetings). The fees and disbursements of counsel to the Underwriters will be borne by the Underwriters, provided, however, that if the Offering is proposed to be completed by the Underwriters at a Purchase Price within the range indicated by RBC to the Corporation in its proposal of December 2, 2003, but the sale of the Shares is not completed for any reason within the control of or attributable to the Corporation or any of its shareholders, including the failure to obtain shareholder approval of the Offering in accordance with the terms of this Agreement, the Corporation will assume and pay the fees and disbursements of counsel to the Underwriters directly. The fees and disbursements of counsel to the Selling Shareholders will be borne by the Selling Shareholders.

25. **Rights to Purchase.**

(a) **Obligation of Underwriters to Purchase**

The obligation of the Underwriters to purchase any Shares will be joint and not several and will be limited to the percentage of the Shares set out opposite the name of the Underwriters respectively below.

RBC Dominion Securities Inc.	35%
CIBC World Markets Inc.	20%
UBS Securities Canada Inc.	20%
GMP Securities Inc.	8⅓%
National Bank Financial Inc.	8⅓%
Raymond James Ltd.	8⅓%

Except as provided below, if at the Closing Time any one or more of the Underwriters fails or refuses to purchase its or their applicable percentage of the Shares, the non-defaulting Underwriters who are willing and able to purchase their own applicable percentages of the Shares shall be relieved of their obligations under this Agreement; provided that, notwithstanding the foregoing, those Underwriters who are willing and able to purchase their respective applicable percentages of the Shares will have the right, but not the obligation (except as provided below), to purchase the Shares not purchased by the defaulting Underwriters pro rata or on such other basis as may be agreed among the non-defaulting Underwriters. Notwithstanding anything contained in this paragraph, the Underwriters will not be entitled to purchase, and the Corporation will not be obligated to sell, less than all the Purchased Shares.

26. **Concurrent Offerings.** The Corporation will not, and will cause its affiliates not to, directly or indirectly sell, issue, authorize, transfer, offer, pledge, contract to sell, sell any option or contract to purchase any option, negotiate or grant any option, right or warrant for the sale of, enter into any derivative, hedging, forward swap or other agreement or transaction that transfers, in whole or in part, directly or indirectly, the economic consequence of ownership of any of its Common Shares (or securities convertible or exchangeable into Common Shares) for a period of 180 days following the date of closing of the Offering, without the prior written consent of the Underwriters, which will not be unreasonably withheld, other than in connection with (i) share compensation and incentive arrangements; (ii) the exchange of Xantrex US Exchangeable Shares; and (iii) outstanding options and warrants to acquire Xantrex US Exchangeable Shares, or acquisitions or other strategic initiatives.

During the period commencing on the date of this Agreement and ending on the 180<sup>th</sup> day after the Closing Date, the Corporation will not consent to, or facilitate the transfer of any of its securities where such transfer would be restricted under the terms of any agreement or instrument to which the Corporation is a party.

27. **Survival of Representations and Warranties.** The representations, warranties, obligations and agreements of the Corporation or the Selling Shareholders contained in this Agreement and/or in any certificate delivered pursuant to this Agreement or in connection with the purchase and sale of the Shares will survive the purchase of the Shares and will continue in full force and effect unaffected by any subsequent disposition of the Shares by the Underwriters or the termination of the Underwriters' obligations and will not be limited or prejudiced by any investigation made by or on behalf of the Underwriters in connection with the preparation of the Prospectus, any Supplementary Materials or the distribution of the Shares. The provisions of this paragraph will not apply if the Underwriters do not purchase any of the Shares. In such circumstances there will be no further liability of the Corporation or the Selling Shareholders to the Underwriters under the terms of this Agreement except in respect of any liability of the Corporation or the Selling Shareholders which may have arisen or may thereafter arise under paragraphs 21, 22 and 24.

28. **Changes in Share Capital.** If the Corporation subdivides, consolidates or otherwise changes, reorganizes or reclassifies its Shares in any way, declares any stock dividend, or becomes subject to any amalgamation, arrangement, business combination, reorganization, or other similar event, other than the

share consolidation provided for in the Prospectus under the heading "Reorganization", (each such event being a "Capital Reorganization Event") prior to the expiry of the Over-Allotment Option, the Additional Shares will be similarly subdivided, consolidated, reorganized, reclassified or changed so that the Underwriters receive, on any exercise of the Over-Allotment Option subsequent to the effective date of the Capital Reorganization Event, the same number and type of securities that they would have otherwise received had they fully exercised the Over-Allotment Option prior to each Capital Reorganization Event and notice will be given to the Underwriters of such adjustment. If the Underwriters disagree with the adjustment, the matter will be determined conclusively by the Corporation's auditors at the expense of the Corporation. If any Shares or other securities required to be reserved for purposes of issuance upon any exercise of the Over-Allotment Option require, in addition to the compliance with the Canadian Securities Laws as is contemplated by this agreement, any additional registration with or approval of any authority under the Canadian Securities Laws, or listing on the TSX before they may be issued, the Corporation will cause them to be duly registered, approved and listed as of the time of delivery by the Underwriters of payment in respect of those Additional Shares.

29. **Time.** Time is of the essence in the performance of the parties' respective obligations under this Agreement.

30. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.

31. **Notice.** Unless otherwise expressly provided in this Agreement, any notice or other communication to be given under this Agreement (a "notice") will be in writing addressed as follows:

If to the Corporation, addressed and sent to:

Xantrex Technology Inc  
8999 Nelson Way  
Burnaby, B.C. V5A 4B5

Attention: Mossadiq Umedaly  
Facsimile: (604) 421-3041

If to RBC, addressed and sent to:

RBC Capital Markets  
Suite 2100, 666 Burrard Street  
Vancouver, B.C. V6C 3B1

Attention: Ted McGurk  
Facsimile: (604) 257-7117

If to CIBC World Markets Inc., addressed and sent to:

CIBC World Markets Inc.  
12<sup>th</sup> Floor, 400 Burrard Street  
Commerce Place  
Vancouver, B.C. V6C 3A6

Attention: Allan Wallace  
Facsimile: (604) 891-6330

If to GMP Securities Inc., addressed and sent to:

GMP Securities Inc.  
Suite 1100, 145 King Street West  
Toronto, ON M5H 1J8

Attention: Harris Fricker  
Facsimile: (416) 943-6160

If to National Bank Financial Inc., addressed and sent to:

National Bank Financial Inc.  
Suite 3200, 130 King Street West  
Toronto, ON M9A 1J9

Attention: Marc Murnaghan  
Facsimile: (416) 869-6411

If to Raymond James Ltd., addressed and sent to:

Raymond James Ltd.  
Suite 2200, 925 West Georgia Street  
Vancouver, B.C. V6C 3L2

Attention: Ian MacKay  
Facsimile: (604) 659-8398

If to the Selling Shareholders, addressed and sent to the address and contact person set out in Schedule A, or to such other address as any of the parties may designate by giving notice to the others in accordance with this paragraph.

Each notice will be personally delivered to the addressee or sent by fax to the addressee and:

- (a) a notice which is personally delivered will, if delivered on a Business Day, be deemed to be given and received on that day and, in any other case, be deemed to be given and received on the first Business Day following the day on which it is delivered; and
- (b) a notice which is sent by fax will be deemed to be given and received on the first Business Day following the day on which it is sent.

32. **Authority of RBC.** RBC is hereby authorized by each of the other Underwriters to act on its behalf and the Corporation will be entitled to and will act on any notice given in accordance with paragraph 31 or agreement entered into by or on behalf of the Underwriters by RBC which represents and warrants that it has irrevocable authority to bind the Underwriters, except in respect of any consent to a settlement pursuant to paragraph 21(c) which consent will be given by the Indemnified Party, a notice of termination pursuant to paragraph 20 which notice may be given by any of the Underwriters. RBC will consult with the other Underwriters concerning any matter in respect of which it acts as representative of the Underwriters.

33. **Selling Shareholders' Obligation to be Joint and Several.** For greater certainty, except where otherwise expressly provided, all of the representations, warranties, covenants and other obligations of the Selling Shareholders in this Agreement will be joint and several.

34. **Counterparts.** This Agreement may be executed by the parties to this Agreement in counterpart and may be executed and delivered by facsimile and all such counterparts and facsimiles will together constitute one and the same agreement.

35. **Language.**The parties hereto have requested that this Agreement and any notice or other document in connection therewith be prepared in the English language. Les parties ont demandé que cette convention ainsi que tous les avis et autres documents y afférents soient rédigés en langue anglaise.

If the foregoing is in accordance with your understanding and is agreed to by you, please signify your acceptance by executing the enclosed copies of this letter where indicated below and returning the same to RBC upon which this letter as so accepted will constitute an Agreement among us.

Yours very truly,

**RBC DOMINION SECURITIES INC.**

By: (signed) Edward J. McGurk  
Edward J. McGurk

**CIBC WORLD MARKETS INC.**

By: (signed) Alan C. Wallace  
Alan C. Wallace

**UBS SECURITIES CANADA INC.**

By: (signed) James E. Kofman  
James E. Kofman

**GMP SECURITIES LTD.**

By: (signed) Harris A. Fricker  
Harris A. Fricker

**NATIONAL BANK FINANCIAL INC.**

By: (signed) Jay Lewis  
Jay Lewis

**RAYMOND JAMES LTD.**

By: (signed) Ian G. MacKay  
Ian G. MacKay

The foregoing offer is accepted and agreed to as of the date first above written.

**XANTREX TECHNOLOGY INC.**

By: (signed) Mossadiq Umedaly  
Mossadiq Umedaly,  
Chairman

By: (signed) Raymond Rosewall  
Raymond Rosewall,  
Chief Executive Officer

The foregoing offer is accepted and agreed to as of the date first above written.

Name of Registered Shareholder:	<u>OCM Principal Opportunities Fund, L.P.</u>
Signature of Registered Shareholder:	<u>(signed) Christopher S. Brothers</u> <u>(signed) Gloria Cannon</u>
Name and Title of Authorized Signatory:	<u>Christopher S. Brothers, Managing Director</u> <u>Gloria Cannon, Vice President, Legal</u>
Number of Xantrex Shares owned by you (post-consolidation):	<u>7,304,943</u>
Are your Xantrex shares beneficially owned by you or registered in your name for the benefit of another person:	<u>OCM Principal Opportunities Fund, L.P.</u>
Number of Xantrex shares we are willing to participate in the Over-Allotment Option	<u>333,000</u>
Name of Registered Shareholder:	<u>Edge Stone Capital Equity Nominee, Inc.</u>
Signature of Registered Shareholder:	<u>(signed) Sandra Cowen</u>
Name and Title of Authorized Signatory:	<u>Sandra Cowen, Executive Vice-President</u>
Number of Xantrex Shares owned by you (post-consolidation):	<u>1,430,000</u>
Are your Xantrex shares beneficially owned by you or registered in your name for the benefit of another person:	<u>In own name</u> <u>Shares to be sold: 250,000 shares</u>
Name of Registered Shareholder:	<u>Chroma ATE Inc.</u>
Signature of Registered Shareholder:	<u>(signed) Leo Huang</u>
Name and Title of Authorized Signatory:	<u>Leo Huang, Director</u>
Number of Xantrex Shares owned by you (post-consolidation):	<u>Certificate No. C-407</u> <u>Pre-Consol. 2,352,584 shares</u>
Are your Xantrex shares beneficially owned by you or registered in your name for the benefit of another person:	<u>Chroma ATE Inc.</u>

**SCHEDULE "A"**  
**OVER-ALLOTMENT OPTION**

Name	Address and Contact Information	Additional Shares
OCM Principal Opportunities Fund, L.P.	<u>Attention:</u> Christopher S. Brothers, Managing Director 333 South Grand Avenue, 28 <sup>th</sup> Floor Los Angeles, CA, 90071 Telephone: 213-830-6300 Facsimile: 213-830-8585	333,000
Edgestone Capital Equity Nominee, Inc.	<u>Attention:</u> Gilbert S. Palter, COO and Managing Partner The Exchange Tower 130 King Street West, Suite 600 P O Box 187 Toronto, Ontario, M5X 1A6 Telephone: 416-860-3740 Facsimile: 416-860-9838	185,750
Chroma ATE Inc.	<u>Attention:</u> Leo Huang , Chairman and CEO 43 Wu-Chuan Rd. Wu-Ku Industrial Park Wu-Ku, Taipei Hsien, Taiwan, R.O.C. Telephone: 02-2298-3855 Facsimile: 02-2298-3596	40,000
<b>TOTAL:</b>		558,750

## SCHEDULE "B"

### SCHEDULE B RULE 144A AND REGULATION D SALES IN THE UNITED STATES

1. Terms used and not defined herein will have the meaning given to them in the Underwriting Agreement to which this Schedule B is attached.
2. The Corporation hereby represents, warrants, covenants and agrees to and with the Underwriters that:
  - (a) The Corporation is a "foreign issuer" with no "substantial U.S. market interest" with respect to the Shares as such terms are defined in Regulation S under the 1933 Act ("**Regulation S**").
  - (b) None of the Corporation or its affiliates (as such term is defined in Rule 501(b) under the 1933 Act) or any person acting on its or their behalf has engaged or will engage in any directed selling efforts (within the meaning of Regulation S) or has engaged or will engage in any form of general solicitation or general advertising (as those terms are defined in Regulation D under the 1933 Act ("**Regulation D**")) with respect to the offer and sale of the Shares in the United States.
  - (c) The Shares satisfy the requirements set out in Rule 144A(d)(3) under the 1933 Act.
  - (d) So long as any Shares which have been sold in the United States in reliance upon Rule 144A under the 1933 Act ("**Rule 144A**") are outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the 1933 Act, the Corporation will either:
    - (i) furnish to the SEC, all information required to be furnished in accordance with Rule 12g3-2(b) under the 1934 Act;
    - (ii) file reports and other information with the SEC under Section 13 or 15(d) of the 1934 Act; or
    - (iii) in the event it is exempt from the reporting requirements pursuant to Rule 12g3-2(b) under, nor subject to the reporting requirements of Section 13 or 15(d) of, the 1934 Act, provide to any holder of the Shares and any prospective purchaser of the Shares designated by such holder, upon request of such holder or prospective purchaser, at or prior to the time of resale, the information required to be provided pursuant to Rule 144A(d)(4) under the 1933 Act (so long as such requirement is necessary in order to permit holders of the Shares to effect resales under Rule 144A).
  - (e) The Corporation is not as of the date hereof, and as a result of the sale of the Shares will not be, an investment company, unit investment trust or face-amount certificate company that is or is required to be registered under Section 8 of the United States Investment Corporation Act of 1940, as amended.
  - (f) The Corporation will deliver to the Underwriters, as soon as practicable after the Prospectus is prepared, an offering memorandum incorporating the Prospectus, prepared for use in connection with the offering for sale of the Shares in the United States, and, promptly after preparation, any amendment to such offering memorandum (such offering

memorandum with all amendments thereto will be hereinafter referred to as the “**U.S. Offering Memorandum**”).

- (g) The Corporation is not subject to any obligation to register any of its securities or file reports with the SEC under the 1934 Act.
  - (h) At the Closing Time, the Shares will be represented by share certificate bearing the legend set forth in item (x) of paragraph 6(f) below and in the case of Shares sold pursuant to Rule 144A, will be eligible for clearing and settlement through the facilities of CDS. The Corporation will use its best efforts to cause CDS and the Corporation’s transfer agent to enforce the restrictions set forth in items (v) and (x) of paragraph 6(f) hereof.
3. The Selling Shareholders, severally, hereby represent, warrant, covenant and agree to and with the Underwriters that none of the Selling Shareholders or any of their respective affiliates or any person acting on its or their behalf (i) has engaged or will engage in any directed selling efforts (within the meaning of Regulation S, (ii) has engaged or will engage in any form of general solicitation or general advertising (as those terms are defined in Regulation D) with respect to the offer and sale of the Shares in the United States or otherwise (iii) directly, or indirectly, has made or will make offers or sales of any of the Shares, or has solicited or will solicit offers to buy any of such Shares, under circumstances that would require the registration of such Shares under the 1933 Act.
4. Each of the Underwriters represents and warrants to and with the Corporation and the Selling Shareholders that:
- (a) It acknowledges that the Shares have not been and will not be registered under the 1933 Act and may not be offered or sold within the United States or to or for the account of U.S. persons absent registration or except pursuant to an applicable exemption from the registration requirements of the 1933 Act. It has not offered or sold, and will not offer or sell, any of the Shares constituting part of its allotment, except in accordance with Regulation S or Rule 144A or, in the case of the Purchased Shares only, in accordance with Regulation D, in transactions that are exempt from registration under state securities laws, as provided in paragraphs 6 and 7 below in transactions that are exempt from registration under state securities laws. Accordingly, neither it or its affiliate(s) nor any persons acting on its or their behalf have engaged or will engage in any directed selling efforts (within the meaning of Regulation S) in the United States with respect to the Shares.
  - (b) It has not entered and will not enter into any contractual arrangement with respect to the distribution of the Shares, except with any of its affiliates or with the prior written consent of the Corporation.
5. The Underwriters will require their U.S. affiliates selling Shares in the United States to agree, for the benefit of the Corporation to comply with, and will use their best efforts to ensure that each such U.S. affiliate complies with, the provisions of clauses 4(a) and (b) above as if such provisions applied to such U.S. affiliate.
6. Each of the Underwriters agrees with the Corporation and the Selling Shareholders that:
- (a) all offers and sales of the Shares in the United States will be effected in accordance with all applicable U.S. broker-dealer requirements.

- (b) any of its U.S. affiliates selling Shares in the United States is a Qualified Institutional Buyer (as that term is defined in Rule 144A).
- (c) it will not, either directly or through a U.S. affiliate, solicit offers for, or offer to sell, the Shares in the United States by means of any form of general solicitation or general advertising (as those terms are used in Regulation D) or in any manner involving a public offering within the meaning of Section 4(2) of the 1933 Act.
- (d) it will solicit, and will cause its U.S. affiliate to solicit, offers for the Shares in the United States only from, and will offer the Shares only to, persons it reasonably believes to be Qualified Institutional Buyers in accordance with Rule 144A and, in the case of Purchased Shares only, to a limited number of institutional “accredited investors” as defined in Rule 501(a)(1), (2), (3) or (7) under the 1933 Act. It also agrees that it will solicit offers for the Shares only from, and will offer the Shares only to, persons that in purchasing such Shares will be deemed to have represented and agreed as provided in clauses (f)(i) through (iv) below (to the extent such representations are applicable to the purchaser concerned) and, in the case of any Shares that are sold to institutional “accredited investors”, to persons that have delivered a letter to the U.S. affiliates of the Underwriters in the form of Appendix A to the U.S. Offering Memorandum.
- (e) it will inform, and cause its U.S. affiliate to inform, all purchasers of the Shares in the United States that the Shares have not been and will not be registered under the 1933 Act and are being sold to them without registration under the 1933 Act in reliance on Rule 144A and may not be resold, pledged or transferred except to (i) the Corporation, (ii) outside the United States in accordance with Regulation S or (iii) inside the United States (1) in accordance with Rule 144A, (2) pursuant to another available exemption from registration under the 1933 Act or (3) pursuant to an effective registration statement under the 1933 Act.
- (f) the U.S. Offering Memorandum will contain disclosure in substantially the form set out below:

“The Shares offered hereby have not been and will not be registered under the 1933 Act and may not be offered or sold within the United States or to or for the account of U.S. persons absent registration or except pursuant to an applicable exemption from the registration requirements of the 1933 Act. Each Underwriter has agreed that it will not offer or sell Shares within the United States, except to certain Qualified Institutional Buyers provided that such reoffers and such resales are made only in accordance with Rule 144A under the 1933 Act (which Rule provides an exemption from registration under such laws in connection with such reoffers and resales) and in the initial offering, but not in connection with any sale of Shares obtained through the exercise of the Underwriters’ Over-Allotment Option, to a limited number of institutional “accredited investors” as defined in Rule 501(a)(1), (2), (3) or (7) under the 1933 Act.”

“Each U.S. purchaser hereof will, by its purchase of such Shares, be deemed to have represented, warranted and agreed for the benefit of the Corporation, the Underwriters and the U.S. affiliates as follows:

- (i) it is aware that the Shares have not been and will not be registered under the 1933 Act and that the offer and sale of Shares to it are being made in reliance on Rule 144A or Regulation D;

- (ii) it is acquiring the Shares for its own account or for the account with respect to which it exercises sole investment discretion and not with a view to any resale, distribution or other disposition of the Shares in violation of United States federal or state securities laws and that it and any such account is (a) Qualified Institutional Buyer or (b) an institutional “accredited investor”;
- (iii) it acknowledges that it has not purchased the Shares as a result of any general solicitation or general advertising, including advertisements, articles, notices or other communications published in any newspaper, magazine or similar media, or broadcast over radio, television or the internet, or any seminar or meeting whose attendees have been invited by general solicitation or general advertising;
- (iv) it is not an affiliate (as defined in Rule 144 under the 1933 Act) of the Corporation and it is not acting on the Corporation’s behalf,
- (v) it understands that if it decides to offer, sell or otherwise transfer such Shares, such Shares may be offered, sold or otherwise transferred only, (A) to the Corporation, (B) outside the United States in accordance with Rule 904 of Regulation S under the 1933 Act, or (C) inside the United States (1) in accordance with Rule 144A to a person the seller reasonably believes is a Qualified Institutional Buyer that is purchasing for its own account or for the account of a Qualified Institutional Buyer to whom notice is given that the offer, sale or transfer is being made in reliance on Rule 144A, (2) in accordance with the exemption from registration under the 1933 Act provided by Rule 144 thereunder, if available, (3) pursuant to a registration statement that has been declared effective under the 1933 Act, or (4) in a transaction that is exempt from, or not subject to, registration under the 1933 Act, subject to the Corporation’s and the registrar and transfer agent’s right to require certificates, an opinion of counsel in form and substance satisfactory to the Corporation and other information it requests to the effect that any proposed transfer or resale is in compliance with the 1933 Act and applicable state securities laws;
- (vi) it has received a copy of and is relying on the information contained in this U.S. Offering Memorandum (including the accompanying Canadian Prospectus) in making its investment decision with respect to the Shares. It acknowledges that no representation or warranty is made by the Underwriters or their U.S. Affiliates as to the accuracy or completeness of such materials. It further acknowledges that none of the Corporation, any Selling Shareholder, the Underwriters or the U.S. Affiliates has made any representation to it with respect to the Corporation or the offering or sale of any Shares other than the information contained in this U.S. Offering Memorandum (including the accompanying Canadian Prospectus). It has had access to such financial and other information concerning the Corporation and the Shares as it has deemed necessary in connection with its decision to purchase any of the Shares, including an opportunity to ask questions of, and request information from, the Corporation, the Underwriters and the U.S. Affiliates;
- (vii) it (a) is able to fend for itself in the transactions contemplated by this U.S. Offering Memorandum and the Canadian Prospectus; (b) has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of its prospective investment in the common shares; and (c) has the ability to bear the economic risk

of this prospective investment and can afford the complete loss of such investment;

- (viii) (a) either (i) it is not a Plan (which term includes employee benefit plans that are subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), plans, individual retirement accounts and other arrangements that are subject to Section 4975 of the Internal Revenue Code of 1986, as amended (the "Code"), or provisions under applicable Federal, state, local, non-U.S. or other laws or regulations that are similar to such provisions of ERISA or the Code ("Similar Laws"), and entities whose underlying assets are considered to include "Plan assets" of such plans, accounts and arrangements) and is not purchasing the common shares on behalf of, or with the "Plan assets" of any Plan or (ii) its purchase, holding and subsequent disposition of the common shares is either not a prohibited transaction under ERISA or the Code and is otherwise permissible under all applicable Similar Laws, or is entitled to exemptive relief from the prohibited transaction provisions of ERISA and the Code in accordance with one or more available statutory, class or individual prohibited transaction exemptions, and is otherwise permissible under all applicable Similar Laws; and
  - (b) it will not transfer the common shares to any person or entity, unless such person or entity could, itself, truthfully make the foregoing representations and agreements;
- (ix) it acknowledges that we, the Underwriters, U.S. Affiliates of Underwriters and Selling Shareholders and others will rely upon the truth and accuracy of the foregoing acknowledgements, representations and agreements and agrees that if any of the acknowledgements, representations or agreements deemed to have been made by its purchase of the common shares are no longer accurate, it shall promptly notify us and the Initial Purchasers. If it is acquiring the common shares as a fiduciary or agent for one or more investor accounts, it represents that it has sole investment discretion with respect to each such account and it has full power to make the foregoing acknowledgements, representations and agreements on behalf of each account;
- (x) it understands and acknowledges that upon the original issuance thereof, and until such time as the same is no longer required under applicable requirements of the 1933 Act or applicable state securities laws, the share certificates representing the Shares sold pursuant to the U.S. Offering Memorandum and all certificates issued in exchange therefor or in substitution thereof, will bear the following legend:

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") THE HOLDER HEREOF, BY PURCHASING SUCH SECURITIES, AGREES FOR THE BENEFIT OF THE COMPANY THAT SUCH SECURITIES MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED ONLY (A) TO THE COMPANY, (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATIONS UNDER THE SECURITIES ACT, OR (C) WITHIN THE UNITED STATES (1) IN ACCORDANCE WITH RULE 144A UNDER THE SECURITIES ACT, (2) IN ACCORDANCE WITH RULE 144 UNDER THE SECURITIES ACT, IF AVAILABLE, (3)

PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, OR (4) IN A TRANSACTION THAT IS EXEMPT FROM, OR NOT SUBJECT TO, REGISTRATION UNDER THE SECURITIES ACT, SUBJECT TO THE COMPANY'S AND THE TRANSFER AGENT'S RIGHT TO REQUIRE CERTIFICATES, AN OPINION OF COUNSEL AND OTHER INFORMATION THEY REQUIRE IN THE FORM AND SUBSTANCE SATISFACTORY TO THE COMPANY TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE SECURITIES ACT AND ANY APPLICABLE STATE SECURITIES LAWS. DELIVERY OF THIS CERTIFICATE MAY NOT CONSTITUTE "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON STOCK EXCHANGES IN CANADA. PROVIDED THE COMPANY IS A "FOREIGN ISSUER" WITHIN THE MEANING OF REGULATION S, A NEW CERTIFICATE, BEARING NO LEGEND, DELIVERY OF WHICH WILL CONSTITUTE "GOOD DELIVERY" MAY BE OBTAINED FROM THE TRANSFER AGENT UPON DELIVERY OF THIS CERTIFICATE AND A DULY EXECUTED DECLARATION, IN A FORM SATISFACTORY TO THE TRANSFER AGENT AND THE COMPANY, TO THE EFFECT THAT THE SALE OF THE SECURITIES REPRESENTED HEREBY IS BEING MADE IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE SECURITIES ACT;

provided that, if any such Shares are being sold under paragraph (v)(B) above, and provided that the Corporation is a "foreign issuer" within the meaning of Regulation S at the time of sale, the legend may be removed by providing a declaration to the registrar and transfer agent, as set forth in Exhibit A hereto (or as the Corporation may prescribe from time to time); provided, further, that, if any such Shares are being sold under paragraph (v)(C)(2) above, the legend may be removed by delivery to the registrar and transfer agent of an opinion of counsel, of recognized standing reasonably satisfactory to the Corporation, to the effect that such legend is no longer required under applicable requirements of the 1933 Act or state securities laws;

- (xi) NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144A FOR REALES OF THE SHARES; AND
- (xii) it consents to the Corporation making a notation on its records or giving instructions to any transfer agent or depository of the Shares, including the Canadian Depository for Securities Limited, in order to implement the restrictions on transfer set forth and described herein."

The Exhibit A referred to in this Section 6 is set forth as Exhibit I to this Schedule.

7. Each Underwriter agrees that:

- (a) it will deliver, through its U.S. affiliate, a copy of each of the preliminary U.S. Offering Memorandum and final U.S. Offering Memorandum (including the Canadian Preliminary Prospectus or Final Prospectus, as the case may be, relating to the Shares and a U.S. covering memorandum) for the U.S. offering to each person in the United States that is offered the Shares or that purchases Shares from it;

- (b) it will cause its U.S. affiliate to agree, for the benefit of the Corporation, to the same provisions as are contained in paragraphs 6 and 7;
- (c) at the Closing Time, it, together with its U.S. affiliate selling Shares in the United States, will provide a certificate, substantially in the form of Exhibit II to this Schedule, relating to the manner of the offer and sale of the Shares in the United States;
- (d) prior to any sale to an institutional “accredited investor” in the United States, it will obtain a letter in the form of Appendix A to the U.S. Offering Memorandum from any such institutional “accredited investor”; and
- (e) it will not sell any Shares purchased pursuant to an exercise of the Underwriters’ Over-Allotment Option to institutional “accredited investors” in the United States.

**EXHIBIT I TO SCHEDULE "B"  
UNDERWRITERS' CERTIFICATE**

**FORM OF DECLARATION FOR REMOVAL OF LEGEND**

TO:   Computershare Investor Services Inc.  
      as registrar and transfer agent  
      for Common Shares of  
      Xantrex Technology Inc.  
      Vancouver, British Columbia

The undersigned (A) acknowledges that the sale of the ● Common Shares (the "Shares") of Xantrex Technology Inc. (the "Corporation") represented by certificate numbers ●, to which this declaration relates is being made in reliance on Rule 904 of Regulation S under the United States Securities Act of 1933, as amended (the "1933 Act") and (B) certifies that (1) it is not an "affiliate" of the Corporation (as defined in Rule 405 under the 1933 Act), (2) the offer of such Shares was not made to a person in the United States and either (x) at the time the buy order was originated, the buyer was outside the United States, or the seller and any person acting on its behalf reasonably believed that the buyer was outside the United States, or (y) the transaction was executed on or through the facilities of the Toronto Stock Exchange and neither the seller nor any person acting on its behalf knows that the transaction has been prearranged with a buyer in the United States, (3) neither the seller nor any affiliate of the seller nor any person acting on any of their behalf has engaged or will engage in any directed selling efforts in the United States in connection with the offer and sale of such Shares. Terms used herein have the meanings given to them by Regulation S, (4) the sale is bona fide and not for the purpose of "washing off" the resale restrictions imposed because the securities are "restricted securities" (as such term is defined in Rule 144(a)(3) under the 1933 Act), (5) the seller does not intend to replace the securities sold in reliance on Rule 904 of the 1933 Act with fungible unrestricted securities and (6) the contemplated sale is not a transaction, or part of a series of transactions which, although in technical compliance with Regulation S, is part of a plan or scheme to evade the registration provisions of the 1933 Act.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT II TO SCHEDULE "B"**  
**UNDERWRITERS' CERTIFICATE**

In connection with the 144A Offering and Regulation D in the United States of common shares (the "Shares") of Xantrex Technology Inc. (the "Corporation") pursuant to the Underwriting Agreement dated March 12, 2004 among the Corporation, the Selling Shareholders named therein and the Underwriters named therein (the "Underwriting Agreement"), each of the undersigned does hereby certify as follows:

- (i) • is a duly registered broker or dealer with the United States Shares and Exchange Commission (the "SEC") and the National Association of Shares Dealers, Inc. ("NASD") and is a member in good standing with the NASD and the SEC on the date hereof,
- (ii) each offeree was provided with a copy of the U.S. Offering Memorandum, including the Canadian final prospectus dated March 12, 2004 and a U.S. covering memorandum, for the offering of the Shares in the United States;
- (iii) immediately prior to transmitting such U.S. Offering Memorandum to the purchasers, we had reasonable grounds to believe and did believe that each offeree was either (1) a Qualified Institutional Buyer (as defined in Rule 144A) or (2) in the case of sales of Shares in the initial offering, but not in connection with any sale of Shares obtained through the exercise of the Underwriters' Over-Allotment Option, an institutional "accredited investor" as such term is defined in Rule 501(a)(1), (2), (3) or (7) under the 1933 Act and, on the date hereof, we continue to believe that each U.S. person purchasing Shares from us is either a Qualified Institutional Buyer or in the case of sales of Shares in the initial offering, but not in connection with any sale of Shares obtained through the exercise of the Underwriters' Over-Allotment Option, an institutional "accredited investor";
- (iv) we have obtained letters in the form of Appendix A to the U.S. Offering Memorandum from all institutional "accredited investors" to which we have sold Shares, in each case prior to the sale of such Shares;
- (v) no form of general solicitation or general advertising (as those terms are used in Regulation D under the 1933 Act) was used by us, including advertisements, articles, notices or other communications published in any newspaper, magazine or similar media or broadcast over radio, television or the internet, or any seminar or meeting whose attendees had been invited by general solicitation or general advertising, in connection with the offer or sale of the Shares in the United States or to U.S. persons; and
- (vi) the offering of the Shares in the United States has been conducted by us in accordance with the Underwriting Agreement.

Terms used in this certificate have the meanings given to them in the Underwriting Agreement unless otherwise defined herein.

IN WITNESS OF WHICH the parties have duly executed this Certificate.

**NAME OF UNDERWRITER**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

**NAME OF U.S. AFFILIATE**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

## SCHEDULE "C"

### LOCKED-UP SHAREHOLDERS

Name	Number of Shares Locked-up (post-consolidation)
<b>Common Shares</b>	
<b>Major Shareholders</b>	
OCM Principal Opportunities Fund, LP	7,304,943
Ontario Municipal Employees Retirement Board	2,863,636
RIT Capital Partners plc	2,160,068
Working Opportunity Fund (EVCC) Ltd	1,495,118
EdgeStone Capital Equity Nominee, Inc.	1,430,000
Business Development Bank of Canada	778,925
Royal Bank of Canada (Royal Bank Ventures)	746,739
Merrill Lynch Investment Managers Limit	683,864
Pacific Ventures Fund Limited Partnership	682,319
Chroma ATE Inc	588,146
HSBC Capital (Canada) Inc.	463,521
AIM Funds Management Inc	340,750
Sustainable Performance Group (Unlisted) NV	318,136
BHF Bank AG	310,875
Durham Enterprises Inc	276,016
GFI Two LLC	23,912
	20,466,967
 <b>Management and Employees</b>	
Umedaly, Mossadiq	388,519
Iman Holdings Inc. (Nazir Mulji)	107,970
LS Investment Partnership	60,520
Mulji, Roshan (transfer from Nazir Mulji)	59,531
WME Holdings Inc. (Mark Edmunds)	58,985
465884 BC LTD (Konrad Mauch)	55,000
van der Gracht, Peter	31,905
Neill, Lawrence	28,390
Soldaty, Larry	20,021
Edmunds, Mark	19,175
RBC Dominion Securities in trust for Mulji, Nazir	11,250
Other Management and Employees (<50,000 shares)	327,573
	1,168,838
 <b>Consultants and Suppliers</b>	
Electron Limited	55,000
Dosani, Firoz	28,750
Lam, Raymond (Pylon)	22,000
Pratzer, Elan	16,500
Other Consultants and Suppliers (<50,000 shares)	12,250
	134,500
 <b>Employees Terminated</b>	
Arciniega, Antonio	52,500
Robart, Kenneth	51,221
Elton, Rhonda	45,092
Cyr, William	28,750
Belanger, Louis	27,512
RBC Dominion Securities ITF Belanger, Louis	22,708
Merritt, RD	19,700

Name	Number of Shares Locked-up (post-consolidation)
McMillan, John	15,568
King, Roger	13,778
Other Canadian Employees Terminated (<50,000 shares)	130,569
Tichelman, Bart	101,432
Meyer, Ray	28,328
Other US Employees Terminated (<50,000 shares)	9,831
	<hr/> 546,989
<b>Other Shareholders</b>	
Polar Capital Partners Limited	218,250
Commerzinvest	208,250
Newton Investment Management	181,750
PNE Invest Ltd , Guernsey	136,250
Co-operators Investment Counselling Ltd	129,500
Galileo Equity	108,750
Jupiter Asset Management	91,000
New Energies Invest AG	91,000
Reabourne Technology Investment Management Ltd	68,250
Shell Canada Pension Fund	66,250
Cypress Capital Management	52,250
Goepel McDermid Inc	35,750
Morley Fund Management	25,500
BMO Nesbitt Burns Inc	24,750
Raymond James Ltd.	19,864
1055 Investment Partnership	11,364
Other Shareholders	2,450
Total Common Shares Held by Other Shareholders	<hr/> 1,471,178
<b>Total Common Shares</b>	<hr/> <b>23,788,471</b> <hr/>
<b>Exchangeable Shares</b>	
Roppenecker, William	541,878
GFI Two LLC	300,528
Yamamoto, Clyde	178,454
Meyer, Ray	168,847
Cox, Ken	128,876
Johnston, Greg	128,876
Roppenecker, Children's Trust	111,422
Hudson, Raymond	71,867
Johnston, Steve	68,248
Hagen, Kevin	35,485
Barbee, Ray	28,520
Franklin, Ken	28,520
Economu, Tim	14,260
Summers, Robert	9,112
Goralnick, Mark	3,000
Summers, Susan	1,823
Harlow, Tim	25
<b>Total Exchangeable Shares</b>	<hr/> <b>1,820,741</b> <hr/>
<b>Total Common and Exchangeable Shares</b>	<hr/> <b>25,609,212</b> <hr/>

## EXHIBIT "D"

### FORM OF CANADIAN LOCK-UP LETTER

RBC Dominion Securities Inc.  
Suite 2100, 666 Burrard Street  
Vancouver, B.C. V6C 3B1

Attention: **Ted McGurk**

#### **Xantrex Technology Inc. (the "Company")**

The undersigned understands that the Company proposes to carry out an underwritten initial public offering (the "Offering") of common shares of the Company ("Common Shares") for which you will act as the representatives of the underwriters. The undersigned is an owner of record or beneficially of certain Common Shares or instruments convertible into or exchangeable or exercisable for Common Shares. The undersigned recognizes that the Offering will be of benefit to the undersigned and will benefit the Company by, among other things, raising additional capital. The undersigned acknowledges that you and the other underwriters are relying on the agreement of the undersigned contained in this letter in carrying out the Offering and in entering into underwriting arrangements with the Company with respect to the Offering.

In consideration of the foregoing, the undersigned hereby agrees that, **in respect of Common Shares or any securities or instruments directly or indirectly convertible into, derivative of or exchangeable for Common Shares, held or beneficially owned by the undersigned or its associates or affiliates on the date hereof or that may be issued to the undersigned or its associates or affiliates upon the conversion of any securities of the Company held by the undersigned or its associates or affiliates on the date hereof (collectively, the "Securities")**, during the period commencing on the date of this agreement and ending on the 180<sup>th</sup> day after the closing date of the Offering, neither the undersigned nor any of its associates or affiliates will, directly or indirectly, without the prior written consent of RBC Dominion Securities Inc. (such consent not to be unreasonably withheld), sell, offer, assign, transfer, encumber, contract to sell, grant an option to purchase, or otherwise enter into any arrangement (including a monetization or derivative arrangement) which has or may reasonably be expected to have the effect of transferring all or any of the economic benefits of ownership of any Securities, and neither the undersigned nor any of its associates or affiliates shall announce during such period any intention to sell, offer, assign, transfer, encumber, contract to sell, grant an option to purchase or monetize any such Securities during or after such period. The undersigned also agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the Securities.

#### Permitted Transfers

Notwithstanding the restrictions on transfers described above, the undersigned may transfer Securities:

- pursuant to a bona fide third party take-over bid made to all holders of Common Shares or similar acquisition transaction provided that in the event that the take-over bid or acquisition transaction is not completed, any Securities shall remain subject to the restrictions contained in this undertaking;
- by way of pledge or security interest to a bona fide financial institution or similar lender provided that the pledgee or beneficiary of the security interest agrees in writing with RBC Dominion Securities Inc. to be bound by this undertaking; or

- to (A) a spouse, parent, child or grandchild of the undersigned (a "Relation"), (B) a trust the only beneficiaries of which are any of the undersigned and/or one or more of its Relations, or (C) a corporation or other entity of which any of the undersigned and/or its Relations are at all times the direct or indirect legal and beneficial owners of all of the outstanding securities or similar interests, provided that in each case the transferee agrees in writing with RBC Dominion Securities Inc. to be bound by this undertaking in respect of future transfers.

This agreement applies only to the Securities and does not apply to securities the undersigned or its associates or affiliates may purchase in the market or otherwise after completion of the Offering.

This agreement is governed by the laws of the Province of British Columbia and the laws of Canada applicable therein. The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this agreement. This agreement is irrevocable and will be binding on the undersigned and the respective successors, heirs, personal representatives, and assigns of the undersigned.

DATED: February \_\_\_\_\_, 2004

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**Name of Shareholder**  
(please print)

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**Signature of Shareholder or  
Authorized Representative**

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**Name of Authorized Representative**  
(if applicable) (please print)

**Number of Common Shares owned or  
subject to warrants, options or  
exchangeable or convertible securities**

**Certificate Number**

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## EXHIBIT "E"

### FORM OF U.S. LOCK-UP LETTER

RBC Dominion Securities Inc.  
Suite 2100, 666 Burrard Street  
Vancouver, B.C. V6C 3B1

**Attention: Ted McGurk**

#### **Xantrex Technology Inc. (the "Company")**

The undersigned understands that the Company proposes to carry out an underwritten initial public offering (the "Offering") of common shares of the Company ("Common Shares") for which you will act as the representatives of the underwriters. The undersigned is an owner of record or beneficially of certain Common Shares or instruments convertible into or exchangeable or exercisable for Common Shares. The undersigned recognizes that the Offering will be of benefit to the undersigned and will benefit the Company by, among other things, raising additional capital. The undersigned acknowledges that you and the other underwriters are relying on the agreement of the undersigned contained in this letter in carrying out the Offering and in entering into underwriting arrangements with the Company with respect to the Offering.

In consideration of the foregoing, the undersigned hereby agrees that, in respect of Common Shares or any securities or instruments ("Exchangeable Shares") directly or indirectly convertible into, derivative of or exchangeable for Common Shares, held or beneficially owned by the undersigned or its associates or affiliates on the date hereof or that may be issued to the undersigned or its associates or affiliates upon the conversion of any securities of the Company held by the undersigned or its associates or affiliates on the date hereof (collectively, the "Securities"), during the period commencing on the date of this agreement and ending on the 180<sup>th</sup> day after the closing date of the Offering, neither the undersigned nor any of its associates or affiliates will, directly or indirectly, without the prior written consent of RBC Dominion Securities Inc. (such consent not to be unreasonably withheld), sell, offer, assign, transfer, encumber, contract to sell, grant an option to purchase, or otherwise enter into any arrangement (including a monetization or derivative arrangement) which has or may reasonably be expected to have the effect of transferring all or any of the economic benefits of ownership of any Securities, and neither the undersigned nor any of its associates or affiliates shall announce during such period any intention to sell, offer, assign, transfer, encumber, contract to sell, grant an option to purchase or monetize any such Securities during or after such period. The undersigned also agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of the Securities.

#### Permitted Transfers

Notwithstanding the restrictions on transfers described above, the undersigned may transfer Securities:

- pursuant to a *bona fide* third party take-over bid made to all holders of Common Shares or similar acquisition transaction provided that in the event that the take-over bid or acquisition transaction is not completed, any Securities shall remain subject to the restrictions contained in this undertaking;
- by way of pledge or security interest to a *bona fide* financial institution or similar lender provided that the pledgee or beneficiary of the security interest agrees in writing with RBC Dominion Securities Inc. to be bound by this undertaking; or

- to (A) a spouse, parent, child or grandchild of the undersigned (a "Relation"), (B) a trust the only beneficiaries of which are any of the undersigned and/or one or more of its Relations, or (C) a corporation or other entity of which any of the undersigned and/or its Relations are at all times the direct or indirect legal and beneficial owners of all of the outstanding securities or similar interests, provided that in each case the transferee agrees in writing with RBC Dominion Securities Inc. to be bound by this undertaking in respect of future transfers.

If the undersigned is a holder of Exchangeable Shares, the undersigned acknowledges and agrees that, while the Common Shares to be issued upon the conversion or exchange of Exchangeable Shares will be freely tradable in Canada, they are not qualified under the Canadian prospectus for the Offering and that the underwriters shall have no liability, whether statutory or under common law, to the undersigned in respect of those Common Shares as they are not being underwritten by the underwriters under the prospectus for the Offering.

This agreement applies only to the Securities and does not apply to securities the undersigned or its associates or affiliates may purchase in the market or otherwise after completion of the Offering.

This agreement is governed by the laws of the Province of British Columbia and the laws of Canada applicable therein. The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this agreement. This agreement is irrevocable and will be binding on the undersigned and the respective successors, heirs, personal representatives, and assigns of the undersigned.

DATED: February \_\_\_\_\_, 2004

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**Name of Shareholder**  
(please print)

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**Signature of Shareholder or  
Authorized Representative**

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**Name of Authorized Representative**  
(if applicable) (please print)

**Number of Common Shares owned or  
subject to warrants, options or  
exchangeable or convertible securities**

**Certificate Number**

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