

EXECUTION COPY

**AMENDED AND RESTATED
SHAREHOLDERS' AGREEMENT**

BETWEEN

THE CORPORATION OF THE CITY OF MISSISSAUGA

AND

BPC ENERGY CORPORATION

AND

ENERSOURCE CORPORATION

MADE AS OF

JUNE 1, 2012

AMENDED AND RESTATED
SHAREHOLDERS' AGREEMENT

THIS AMENDED AND RESTATED SHAREHOLDERS' AGREEMENT made
as of June 1, 2012;

B E T W E E N:

**THE CORPORATION OF THE CITY OF
MISSISSAUGA**, a municipal Corporation created
under the laws of the Province of Ontario (hereinafter
referred to as the "**City of Mississauga**"),

OF THE FIRST PART,

- and -

BPC ENERGY CORPORATION, (a wholly-owned
Subsidiary Entity of the Ontario Municipal Employees
Retirement Board), a corporation incorporated under
the laws of Canada (hereinafter referred to as
"**Borealis**"),

OF THE SECOND PART,

-and-

ENERSOURCE CORPORATION, a corporation
incorporated under the laws of the Province of Ontario
(hereinafter referred to as the "**Corporation**"),

OF THE THIRD PART,

- 2 -

WHEREAS the Corporation was incorporated by the City of Mississauga for the purposes set out, and in accordance with, Section 142 of the *Electricity Act, 1998* (Ontario);

AND WHEREAS the authorized capital of the Corporation consists of an unlimited number of Class A Shares, 1,000 Class B Shares, and 100 Class C Shares;

AND WHEREAS at the date hereof all of the issued shares in the capital of the Corporation are beneficially owned by the City of Mississauga and Borealis as follows:

<u>SHAREHOLDERS</u>	<u>CLASS A SHARES</u>	<u>CLASS B SHARES</u>	<u>CLASS C SHARES</u>
City of Mississauga	180,555,562	900	0
Borealis	0	100	100

AND WHEREAS the Shareholders and the Corporation entered into a Shareholders' Agreement dated as of December 6, 2000 (the "**Original Shareholders' Agreement**");

AND WHEREAS the Shareholders and the Corporation have agreed to make certain amendments to the Original Shareholders' Agreement and to enter into this Agreement to amend and restate the Original Shareholders' Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and the mutual covenants and agreements herein contained the parties hereto agree as follows:

ARTICLE 1 – INTERPRETATION

1.01 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

"Affiliate" means, in respect of a person, a person that controls such person, a Subsidiary Entity of such person or a person who is controlled by the same person.

"Agreement" means this agreement and all schedules attached hereto and all amendments made hereto and thereto by written agreement between the Shareholders and the Corporation.

"Associate", where used to indicate a relationship with any person, means: (a) any body corporate of which the person beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the body corporate for the time being outstanding; (b) any partner of that person; (c) any trust or estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar capacity; (d) any relative of the person, including the person's spouse, where the relative has the same home as the person; or (e) any relative of the spouse of the person where the relative has the same home as the person.

- 3 -

"**Assumption Agreement**" means an agreement in the form attached hereto as Schedule C;

"**Auditor**" means the auditor of the Corporation appointed from time to time.

"**Board**" means the board of directors of the Corporation as elected by the Shareholders from time to time.

"**Borealis Notice**" has the meaning set out in Section 3.03(2).

"**Borealis Subject Shares**" has the meaning set out in Section 3.03(2).

"**Borealis-Third Party Purchase and Sale Agreement**" has the meaning set out in Section 3.03(2).

"**Business Corporations Act**" means the *Business Corporations Act* (Ontario), as now enacted or as the same may from time to time be amended, re-enacted or replaced.

"**Business Day**" means a day other than a Saturday, Sunday or statutory holiday in the Province of Ontario.

"**Chair**" means the director who is appointed Chair of the Board from time to time as herein provided.

"**City Notice**" has the meaning set out in Section 3.02(2).

"**City Subject Shares**" has the meaning set out in Section 3.02(2).

"**City-Third Party Purchase and Sale Agreement**" has the meaning set out in Section 3.02(1)(c).

"**Class A Shares**" means the Class A shares in the capital of the Corporation.

"**Class B Shares**" means the Class B shares in the capital of the Corporation.

"**Class C Shares**" means the Class C shares in the capital of the Corporation.

"**Common Shares**" means, following the filing of articles of amendment of the Corporation to create common shares in the capital of the Corporation as contemplated in Section 3.05(1), the common shares in the capital of the Corporation.

"**Communication**" has the meaning set out in Section 4.08.

"**Council**" means, at any time, the City Council at such time of the City of Mississauga.

"**Emergency**" means an imminent or existing situation, event or condition beyond the Corporation's control which in the reasonable judgment of management of the Corporation requires prompt action in order to: (i) maintain a condition of safety; (ii) safeguard life, property or the environment; or (iii) maintain the supply of electricity to its customers; and where it is not practical to seek prior Board approval for such action.

- 4 -

“Equivalent Price” means in respect of each Class C Share to be sold by Borealis in accordance with the provisions of Section 3.02(5) or 3.02(6) a price calculated as follows:

$$\text{Price per Class C Share} = \text{Book Value Per Class C Share} \times \frac{\text{Price Per Class A Share}}{\text{Book Value Per Class A Share}}$$

Where:

“Price Per Class A Share” means the price being paid to the City of Mississauga pursuant to the Third Party Offer for each Class A Share

$$\text{“Book Value Per Class C Share”} = \frac{D}{B}$$

$$\text{“Book Value Per Class A Share”} = \frac{C}{A}$$

“A” = the number of Class A Shares then issued and outstanding;

“B” = the number of Class C Shares then issued and outstanding;

“C” = the sum of the aggregate subscription amount for all Class A Shares then outstanding and the amount of all capital contribution made to the Corporation in respect of the Class A Shares, less any amounts of capital returned or distributed to holders of the Class A Shares on account thereof; and

“D” = the sum of the aggregate subscription amount for all Class C Shares then outstanding and the amount of all capital contribution made to the Corporation in respect of the Class C Shares, less any amounts of capital returned or distributed to holders of the Class C Shares on account thereof.

“Human Resources and Corporate Governance Committee” means the committee of the Board established in accordance with the provisions of Section 2.20(1).

“Independent” means an individual who does not have a direct or indirect material relationship with any of the Corporation, a Subsidiary Entity of the Corporation, a Shareholder or a member of Council (collectively, the **“Subject Persons”**). For the purposes hereof, a **“material relationship”** is a relationship which could, in the view of a reasonable person, having regard to all relevant facts and circumstances, be reasonably expected to interfere with or influence the exercise of such individual’s independent judgment. For greater certainty, the following individuals are considered to have a material relationship with a Subject Person:

- (i) an individual who is, or has been within the last three years, a director, trustee, partner, officer or employee of the Subject Person or any of its Associates;
- (ii) an individual whose family member is, or has been within the last three years, a director, trustee, partner, officer or employee of the Subject Person or any of its Associates;

- 5 -

- (iii) an individual who has received, or who is a director, trustee, partner, member, officer or employee of a firm or other enterprise that has received, more than \$75,000 in compensation from the Subject Person or its Associates during any 12 month period within the last three years; and
- (iv) an individual who is a family member of the Subject Person.

“Independent Director” means a director of the Corporation who is Independent.

“Interim Period” means the period from the date hereof until the earliest to occur of: (i) December 1, 2014; (ii) the date on which any one of Hazel McCallion, Pat Saito, Ron Starr or Katie Mahoney ceases to be a director of the Corporation; and (iii) the first date on which any one of Hazel McCallion, Pat Saito, Ron Starr or Katie Mahoney ceases to be a councillor of the City of Mississauga.

“Nominating Committee” means the committee of the Board established in accordance with the provisions of Section 2.20(2).

“Original Shareholders’ Agreement” has the meaning set out in the recitals to this Agreement;

“Proxy Group” means the four municipally controlled electricity distributors in Ontario that are closest in size to the Corporation, measured by reference to average peak load, as published by the Ontario Energy Board in its most recent Yearbook of Electricity Distributors, for which the information required to assess director remuneration pursuant to Section 2.15(1)(g) is available to the Corporation; The Parties agree that on the date hereof, the Proxy Group consists of Hydro Ottawa Limited, PowerStream Inc., Horizon Utilities Corporation and London Hydro Inc. If the remuneration paid by any such companies to its directors is no longer reasonably available to the Corporation or any of such companies ceases to be one of the four municipally controlled electricity distributors in Ontario that are closest in size to the Corporation, as measured as aforesaid, then such company shall be removed from the Proxy Group and the Nominating Committee shall select the next municipally owned electricity distribution company in the Province of Ontario closest in size to the Corporation, as measured as aforesaid, in respect of which the Corporation can reasonably obtain information about the remuneration of such company’s directors to be part of the Proxy Group. Once identified by the Nominating Committee, such replacement company shall become part of the Proxy Group in the place of the company removed and then until replaced in accordance with the terms hereof.

“Shares” means the shares in the capital of the Corporation that the Shareholders at the date hereof or hereafter may beneficially own.

“Shareholders” means the City of Mississauga and Borealis together with such other persons as may become beneficial owners of shares of the Corporation and parties to this Agreement, collectively, and “Shareholder” means any one of such persons individually.

“Subsidiary Entity” means, with respect to any person, an entity that is controlled, directly or indirectly, by that person.

“Third Party Offer” has the respective meaning set out in Section 3.02(2) and Section 3.03(2).

- 6 -

“Third Party Purchaser” means a person who deals at arms’ length (as defined in the *Income Tax Act* (Canada), as now enacted or as the same may from time to time be amended, re-enacted or replaced) with the vendor of the Shares that are the subject of the particular transaction.

“Voting Shares” means the Class A Shares and the Class C Shares from time to time outstanding, and upon the filing of Articles of Amendment to create common shares in the capital of the Corporation as contemplated in Section 3.05, the Common Shares.

1.02 **Sections and Headings**

The division of this Agreement into Articles and Sections and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement or instrument supplemental or ancillary hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Schedules are to Articles, Sections and Schedules to this Agreement.

1.03 **Number**

Words importing the singular number only shall include the plural and *vice versa*, words importing the masculine gender shall include the feminine and neuter genders and *vice versa* and words importing persons shall include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and *vice versa*.

1.04 **Accounting Principles**

Wherever in this Agreement reference is made to generally accepted accounting principles, such reference shall be deemed to be the generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute, applicable as at the date on which such calculation is made or required to be made in accordance with generally accepted accounting principles.

1.05 **Unanimous Shareholder Agreement**

This Agreement is intended to be a unanimous shareholders agreement under the *Business Corporations Act*. Notwithstanding the foregoing, this agreement is not nor is it intended to be a unanimous shareholder agreement within the provisions of Section 108(3) of the *Business Corporations Act*.

1.06 **Control**

(1) For the purposes of this Agreement:

- (a) a person controls a body corporate if securities of the body corporate to which are attached more than 50% of the votes that may be cast to elect directors of the body corporate are beneficially owned by the person and the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate;

- 7 -

- (b) a person controls an unincorporated entity, other than a limited partnership, if more than 50% of the ownership interests, however designated, into which the entity is divided are beneficially owned by the person and the person is able to direct the business and affairs of the entity; and
 - (c) the general partner of a limited partnership controls the limited partnership.
- (2) A person who controls an entity is deemed to control any entity that is controlled, or deemed to be controlled, by the entity.
- (3) A person is deemed to control, within the meaning of Section 1.06(1)(a) or (1)(b), an entity if the aggregate of:
- (a) any securities of the entity that are beneficially owned by that person; and
 - (b) any securities of the entity that are beneficially owned by any entity controlled by that person;

is such that, if that person and all of the entities referred to in Section 1.06(3)(b) that beneficially own securities of the entity were one person, that person would control the entity.

1.07 **Schedules**

The following are the Schedules to this Agreement:

Schedule A – Articles of Amendment;

Schedule B – Nomination Committee Charter; and

Schedule C – Assumption Agreement.

ARTICLE 2- MANAGEMENT

2.01 **Carrying out of the Agreement**

The Shareholders shall at all times carry out and cause the Corporation to carry out the provisions of this Agreement.

2.02 **Idem**

To the extent that each Shareholder is permitted by law to bind its nominee to do so, the nominee directors of the Shareholder will act and vote as directors in order that the purpose, intent and provisions of this Agreement shall be carried out.

2.03 **Idem**

The Corporation confirms its knowledge of this Agreement and will carry out and be bound by the provisions of this Agreement to the full extent that it has the capacity and power at law to do so.

- 8 -

2.04 **Endorsement on Certificate**

Share Certificates of the Corporation issued after the date hereof shall bear the following language either as an endorsement or on the face thereof:

“The shares represented by this certificate are subject to all the terms and conditions of an amended and restated shareholder agreement made as of June 1, 2012, as may be further amended from time to time, a copy of which is on file at the registered office of the Corporation.”

2.05 **Directors**

(1) The Articles of the Corporation shall provide for the Board to have a minimum of three (3) directors and a maximum of twelve (12) directors.

(2) During the Interim Period, the Board shall consist of eleven (11) directors. During the Interim Period, the City of Mississauga shall be entitled to nominate as members of the Board ten (10) individuals and Borealis shall be entitled to nominate as a member of the Board one (1) individual, in each case who are qualified to act as directors under the Business Corporations Act. Of the ten (10) individuals to be nominated by the City of Mississauga during the Interim Period, at least six (6) of such ten (10) individuals must be Independent and have been recommended to the City of Mississauga by the Nominating Committee in accordance with the provisions of Section 2.20(2) hereof.

(3) Following the Interim Period, the Board shall consist of ten (10) directors. Following the Interim Period, the City of Mississauga shall be entitled to nominate as members of the Board nine (9) individuals and Borealis shall be entitled to nominate as a member of the Board one (1) individual, in each case who are qualified to act as directors under the *Business Corporations Act*. Of the nine (9) to be nominated by the City of Mississauga following the Interim Period, at least six (6) of such nine (9) individuals must be Independent and have been recommended to the City of Mississauga by the Nominating Committee in accordance with the provisions of Section 2.20(2) hereof.

(4) All members of the Board will be expected to contribute to the effectiveness of the Board and its oversight of the Corporation. The Board members as a group will be expected to have skills and experience in corporate governance, leadership resources, compensation, mergers and acquisitions, finance, rate setting and safety regulations.

(5) Each Shareholder shall vote its Shares to elect the individuals nominated by the City of Mississauga and Borealis as aforesaid. As soon as practicable following the end of the Interim Period, the Shareholders will vote their shares to reduce the size of the Board from eleven (11) to ten (10) directors.

(6) On the date hereof, the Directors (and the Shareholders whose nominee they are) are as follows:

- 9 -

Director

Shareholder

Norman B. Loberg

City of Mississauga

Gerald E. Beasley

City of Mississauga

Robert MacCallum

City of Mississauga

Hasan Imam

City of Mississauga

Hazel McCallion

City of Mississauga

Pat Saito

City of Mississauga

Ron Starr

City of Mississauga

Katie Mahoney

City of Mississauga

Michael Nobrega

Borealis

Richard Byers

Borealis

It is agreed by the parties hereto that on the date hereof, each of Norman B. Loberg, Gerald E. Beasley, Robert MacCallum, and Hasan Imam are Independent and shall be Independent Directors notwithstanding that they have not been recommended to the City of Mississauga by the Nominating Committee.

(7) The directors shall use their commercially reasonable efforts to establish and constitute the Nominating Committee as soon as reasonably practicable following the date of this Agreement, and in any event in accordance with Section 2.20(2). The Nominating Committee shall thereafter use its commercially reasonable efforts to recommend to the City of Mississauga individuals qualified to become Independent Directors, having regard to the intention of the parties hereto set out in this Section 2.05 and Section 2.20(2) within sixty (60) days of the date hereof; and the City of Mississauga shall use its commercially reasonable efforts to nominate two (2) such individuals to serve as Independent Directors within thirty (30) days of the Nominating Committee having provided its recommendation to the City of Mississauga.

2.06 **Chair**

The Chair shall be selected by the Board from among the Independent Directors. The chair for each meeting of the Board shall be the Chair. In the absence of the Chair, the chair of the meeting shall be one of the other Independent Directors, as selected by the directors in attendance at such meeting.

2.07 **Removal of Directors**

(1) Subject to the provisions of the *Business Corporations Act*, each Shareholder shall be entitled in its discretion to remove one or more of the directors nominated by it and to nominate and, subject to the provisions of Section 2.05, have a person elected a successor or successors, as the

- 10 -

case may be, by providing a direction in writing to the Corporation and to the other Shareholders who shall forthwith pass a resolution or resolutions removing such director and electing such replacement director or directors. Upon the resignation or removal of a director from the Board, the Shareholder that nominated such director shall use reasonable efforts to obtain and deliver to the Corporation a resignation and a release from such director in a form satisfactory to the Corporation.

(2) The City of Mississauga shall remove from the Board any Independent Director who ceases to be Independent and shall nominate a new person, in accordance with the provisions of Section 2.05, to succeed such removed director.

2.08 **Voting**

Subject to Section 2.14, all matters to be determined by the Board shall be determined by a majority vote of directors who are present at a duly convened meeting of the Board and, in case of an equality of votes, the chair of the meeting shall be entitled to a second or casting vote.

2.09 **Meeting of Directors**

The Board shall meet at least once each financial quarter at a time and place to be determined by the Chair, provided that all meetings of the Board shall, unless held by telephone or video conference, be held at a location within the Province of Ontario and a majority of such meetings in any calendar year shall be held within the City of Mississauga. Any one or more of the directors may participate in a meeting of the Board by telephonic or video device as permits all participants in the meeting to communicate with each other simultaneously and instantaneously and such participation shall be deemed to constitute attendance at the meeting of the Board for the purpose of this Section 2.09. The Chair may determine that any meeting of the Board shall be held by telephone or video conference. At least ten (10) Business Days prior to each meeting, each director shall be notified in writing of the time and place of the meeting of the Board and the matters to be considered. Additional meetings of the Board may be called by any director by producing notice in writing to every other director containing the information required and the notice required for a regularly scheduled meeting of the Board. A director may waive notice of any meeting of the Board by an instrument in writing delivered to the Secretary of the Corporation. Notwithstanding Section 2.08, in lieu of a meeting of the directors, the consent of the director with respect to any matter may be evidenced by a resolution in writing (which may be in counterparts) signed by all of the directors.

2.10 **Quorum - Meetings of Directors**

A quorum for a meeting of the Board shall consist of a majority of the directors, provided that to constitute a quorum, at least four (4) of the directors present (whether in person or by telephone, video or other electronic means as contemplated and permitted by Section 2.09) must be Independent Directors. If a quorum of directors is not present within thirty (30) minutes after the time appointed for a meeting of the Board, the meeting shall be adjourned to a date not less than five (5) and not more than fifteen (15) Business Days subsequent to the date originally set for the meeting, as reflects a good faith effort by the Corporation to schedule such adjourned meeting to a date convenient to the Board as a whole (with notice of such rescheduled meeting being provided to all of the directors) and the directors present in person (whether in person or by

- 11 -

telephone, video or other electronic means as aforesaid) shall constitute a quorum for such adjourned meeting provided that a majority of such persons are Independent Directors.

2.11 **Vacancies**

In the event of any vacancy occurring on the Board by reason of the death, disqualification, inability to act or resignation of any director (the "**Former Director**") previously nominated by a particular Shareholder, such Shareholder shall, subject to the provisions of Section 2.05, nominate another individual to replace the Former Director in order to fill such vacancy as soon as reasonably possible, and the Shareholders shall vote their Shares accordingly. Notwithstanding the foregoing, any delay or failure by a Shareholder to nominate persons to fill vacancies created and occurring on the Board for whatever reason, shall not prejudice or otherwise effect the right of such Shareholder to nominate a person to later fill such vacancy.

2.12 **Remuneration**

The remuneration of the Directors for their respective services will be as determined by the Board from time to time on the recommendation of the Human Resources and Corporate Governance Committee of the Board on advice from an independent consultant retained by such Committee. Any change in the remuneration of the Directors shall have been approved in accordance with the provisions of Section 2.14(e) and, if applicable, Section 2.15(1)(g).

2.13 **Insurance**

The Corporation shall acquire and maintain insurance coverage for the directors and officers of the Corporation as the Board may determine from time to time. In the event that such insurance coverage ceases to be available to the directors for any reason, each Shareholder shall be responsible for insuring its own nominees.

2.14 **Special Approval of Actions by Directors**

In addition to any other approvals required by law, including without limitation, pursuant to the *Business Corporations Act*, none of the following actions shall be taken unless approved by the Board, such approval to be given by the affirmative vote of not less than seventy-five (75%) percent of the directors who are present at a properly constituted meeting of the Board, or by resolution in writing signed by all of the directors of the Corporation:

- (a) any change in the Articles or By-laws of the Corporation;
- (b) the taking of any steps to wind-up, dissolve or terminate the corporate existence of the Corporation;
- (c) any action which may lead to or result in a material change in the nature of the business of the Corporation;
- (d) any change in the authorized or issued capital of the Corporation;
- (e) the determination of or change in the remuneration of directors;

- 12 -

- (f) the sale, lease, exchange or disposition of the entire undertaking or property or assets of the Corporation or any substantial part thereof;
- (g) the entering into of an amalgamation, merger or consolidation with any other body corporate except a wholly-owned Subsidiary Entity of the Corporation;
- (h) the entering into of any agreement other than in the ordinary course of the Corporation's business, as defined in Section 2.15(2);
- (i) the entering into of any agreement or the making of any offer or the granting of any right capable of becoming an agreement to allot or issue any shares of the Corporation;
- (j) the taking, holding, subscribing for or agreeing to purchase or acquire shares in the capital of any body corporate;
- (k) the acquisition by the Corporation of a business and/or all or substantially all of the assets used in a business of any other person except a wholly-owned Subsidiary Entity of the Corporation;
- (l) the entering into of any material agreement to which any Shareholder or affiliate of a Shareholder is a party;
- (m) the borrowing of any money, the giving of any security or, except because of an Emergency, the making or incurring of any single capital expenditure, in each of the foregoing cases, in excess of \$2,500,000 or, except because of an Emergency, any capital expenditures which, in the aggregate, are in excess of \$5,000,000 in any financial year of the Corporation; provided that draws on or issuances of letters of credit pursuant to a credit facility of the Corporation existing on the date hereof or another credit facility approved in accordance with the provisions of this Section 2.14(m) shall not be considered an additional borrowing of money requiring further approval in accordance with the provisions of this Section 2.14(m);
- (n) the disposition by way of sale, transfer, exchange or lease of any asset with a value in excess of \$2,500,000;
- (o) the making of, directly or indirectly, loans or advances to, or the giving of security for or the guaranteeing of the debts of, any person other than a wholly-owned Subsidiary Entity of the Corporation;
- (p) the declaration or payment of any dividend;
- (q) the redemption or purchase for cancellation by the Corporation of any of its issued shares;
- (r) the entering into of a partnership or of any arrangement for the sharing of profits, union of interests, joint venture or reciprocal concession with any person;

- 13 -

- (s) the voting by or on behalf of the Corporation of any shares in the capital of a Subsidiary Entity of the Corporation to elect directors of such corporation;
- (t) except as provided in Section 2.20 in respect of the Human Resources and Corporate Governance Committee and the Nominating Committee, the creation of any Committee of the Board and/or the delegation of any power, authority or responsibility to any Committee of the Board whether by resolution, charter, terms of reference or otherwise; and
- (u) the taking of any of the foregoing actions by any Subsidiary Entity of the Corporation except that:
 - (i) Section 2.14(b) shall not apply to a Subsidiary Entity of the Corporation if the Subsidiary Entity is dormant or inactive;
 - (ii) Section 2.14(c) shall not apply to a Subsidiary Entity of the Corporation if the nature of the business is one already carried on by the Corporation or another Subsidiary Entity of the Corporation;
 - (iii) Section 2.14(f) shall not apply to a wholly-owned Subsidiary Entity of the Corporation if the sale, lease, exchange or disposition is to the Corporation or another wholly-owned Subsidiary Entity of the Corporation; and
 - (iv) Section 2.14(m) shall not apply to a wholly-owned Subsidiary Entity of the Corporation if the borrowing of any money is from the Corporation or any other wholly-owned Subsidiary Entity of the Corporation or if the giving of security is to the Corporation or another Subsidiary Entity of the Corporation.

2.15 **Special Approval by the City of Mississauga**

(1) In addition to any other approvals required by law, including without limitation, pursuant to the *Business Corporations Act*, and in addition to the approval of the Board required pursuant to Section 2.14, none of the following actions shall be taken unless approved in advance in writing by the City of Mississauga:

- (a) any change in the Articles or By-laws of the Corporation;
- (b) the taking of any steps to wind-up, dissolve or terminate the corporate existence of the Corporation;
- (c) any change in the location of the registered office of the Corporation to a location outside of the municipality of the City of Mississauga;
- (d) any change in the authorized or issued capital of the Corporation;
- (e) any action which may lead to or result in a material change in the nature of the business of the Corporation;

- 14 -

- (f) the entering into of any agreement or series of agreements related to the same matter other than in the ordinary course of the Corporation's business, as defined in Section 2.15(2), in respect of which the aggregate consideration payable by the Corporation thereunder could reasonably be expected to exceed \$100,000;
- (g) any increase in remuneration paid to the Chairman of the Board, the Chair of a Committee of the Board, or the directors of the Corporation, if as a result of such increase, such person would receive an amount in excess of the mean of the total amount of remuneration (including, without limitation, annual retainer, meeting fees, and long term incentive plans) paid to the Chairman of the Board, Chair of a comparable Committee or the directors, as the case may be, of the Proxy Group;
- (h) the entering into of any material agreement to which any Shareholder or affiliate of a Shareholder is a party;
- (i) the sale, lease, exchange or disposition of the entire undertaking or property, or assets of the Corporation or any substantial part thereof;
- (j) the entering into of an amalgamation, merger or consolidation with any other body corporate except a wholly-owned Subsidiary Entity of the Corporation;
- (k) the entering into of any agreement or the making of any offer or the granting of any right capable of becoming an agreement to allot or issue any shares of the Corporation;
- (l) the taking, holding, subscribing for or agreeing to purchase or acquire shares in the capital of any body corporate;
- (m) the acquisition by the Corporation of a business and/or all or substantially all of the assets used in a business;
- (n) the redemption or purchase for cancellation by the Corporation of any of its issued shares;
- (o) the entering into of a partnership or of any arrangement for the sharing of profits, union of interests, joint venture or reciprocal concession with any person; and
- (p) the taking of any of the foregoing action by any Subsidiary Entity of the Corporation except that:
 - (i) Section 2.15(1)(b) shall not apply to a Subsidiary Entity of the Corporation if the Subsidiary Entity is dormant or inactive;
 - (ii) Section 2.15(1)(e) shall not apply to a Subsidiary Entity of the Corporation if the nature of the business is one already carried on by the Corporation or another Subsidiary Entity of the Corporation; and

- 15 -

- (iii) Section 2.15(1)(i) shall not apply to a wholly-owned Subsidiary Entity of the Corporation if the sale, lease, exchange or disposition is to the Corporation or another wholly-owned Subsidiary Entity of the Corporation.

(2) For purposes of Section 2.14(h) and 2.15(1)(f), "ordinary course of the Corporation's business" means the actions taken to further the business of the Corporation, it being acknowledged and agreed that the business of the Corporation is: (i) the provision in Canada of the generation, distribution and transmission of electricity, the provision of street lighting, energy conservation services, consulting services in connection with any of the foregoing, electricity retailing and construction services in connection with any of the foregoing, and in furtherance of any mandate adopted from time to time by the Board to implement policies promulgated by any Canadian or provincial government, governmental agency or regulatory body making policy respecting electricity, and (ii) such other businesses as are approved from time to time in accordance with the provisions of Sections 2.14(c) and 2.15(1)(e).

2.16 Books and Records

(1) Proper books of accounts shall be kept by the Corporation and entries shall be made therein of all matters, terms, transactions and things in accordance with generally accepted accounting principles and applicable laws. Each Shareholder and its auditors and other representatives shall have access at all reasonable times to examine and copy such books, records and other information; provided however that, to the extent that such representatives are not otherwise bound by a professional obligation of confidentiality satisfactory to the Corporation acting reasonably, the Corporation may require such representative to enter into a confidentiality agreement in favour of the Corporation, in form and substance satisfactory to the Corporation, acting reasonably, in respect of such books, records and other information prior to any disclosure of same to such representative. For greater certainty, except as otherwise permitted by this Agreement, no third party other than an auditor or other representative of a Shareholder shall have access to the Corporation's books of account without the prior written consent of the Corporation. Each Shareholder may, at its own expense, arrange for an annual audit of the Corporation by its own internal audit department. Each Shareholder shall be permitted to conduct, at its own expense, such further and other investigations into the financial affairs of the Corporation as it may reasonably require.

(2) Notwithstanding anything to the contrary in this Agreement, each Shareholder who desires to assign, sell or otherwise transfer its Shares in accordance with the terms of this Agreement may provide to a prospective Third Party Purchaser and its representatives access to such books, records and other information of the Corporation as shall be necessary or desirable in connection therewith; provided that, the Corporation may require such Third Party Purchaser or its representatives to enter into a confidentiality agreement in favour of the Corporation in form and substance satisfactory to the Corporation, acting reasonably, in respect of such books, records and other information prior to any disclosure of same to such Third Party Purchaser or its representative.

2.17 Annual Financial Statements

(1) The Board shall cause the Auditor to deliver, as soon as practicable and in any event within 120 days after the end of each fiscal year of the Corporation, for review and approval by the Board, the audited financial statements of the Corporation.

- 16 -

(2) The parties will provide such assistance as the Auditor may reasonably request in order for the Auditor to fulfill the obligations set out in subsection 2.17 (1).

(3) The audited financial statements, as approved by the Board, shall be delivered forthwith to the Shareholders.

2.18 **Quarterly Reports**

Within ninety (90) days after the end of first fiscal quarter of 2012, and thereafter within sixty (60) days after the end of each fiscal quarter, the Board will cause to be prepared (on a consistent basis with the previous fiscal quarter) and submit a quarterly report to the Shareholders. The quarterly report will include:

- (a) quarterly unaudited financial statements for the immediately preceding fiscal quarter; and
- (b) information that is likely to be of material concern to the Shareholders.

2.19 **General Principles**

(1) Subject to all requirements of law, the directors shall oversee the management of the Corporation to maximize the profits of the Corporation and the dividends to the Shareholders and, in so doing, shall also maximize the return on the unregulated businesses.

(2) Subject to the terms hereof, the Corporation and the Board will continue to adopt policies and procedures that from time to time represent good practices for corporate governance.

(3) The Corporation will continue to be operated as a commercial business providing, through its Subsidiary Entities, safe and reliable service to its customers meeting best in class utility standards.

2.20 **Committees of the Board**

(1) The Corporation shall maintain a Human Resources and Corporate Governance Committee of the Board. The Human Resources and Corporate Governance Committee shall be comprised of five (5) directors, of which three (3) shall be Independent Directors and two (2) shall be directors designated by the City of Mississauga who may, but need not be, Independent Directors.

(2) The Corporation shall establish and maintain a Nominating Committee of the Board. The Nominating Committee shall be comprised of four (4) directors, of which three (3) shall be Independent Directors and one (1) shall be a director designated by the City of Mississauga who may, but need not be, an Independent Director.

- (a) The Nominating Committee will identify individuals qualified to become Independent Directors, having regard to the intention of the parties hereto set out in Section 2.05, for recommendation to the City of Mississauga. The City of Mississauga may accept such recommendation and nominate one or more of such persons to be directors in accordance with the provisions of Section 2.05 or, acting

- 17 -

reasonably, reject such recommendation and refuse to nominate any one or more such persons; for greater certainty, in considering any such person or persons, the Nominating Committee shall: (i) provide the City of Mississauga with one (1) additional potential nominee director in excess of the number of directors required to be nominated at the particular time in the event that the number of directors required to be nominated at that time is four (4) or fewer directors, and two (2) additional potential nominee directors in the event that the number of directors required to be nominated at the particular time is greater than four (4) directors; (ii) consider potential nominee directors that may be proposed for consideration by the Nominating Committee by the Council, provided that the Nominating Committee is under no obligations to recommend such persons to the City of Mississauga; and (iii) provide the City of Mississauga with the reasons for its recommendations in respect of each potential nominee director having regard, *inter alia*, to the matters set out in Section 2.20(2)(d), which reasons the City of Mississauga shall have regard to (but not be limited to) in determining whether to accept or reject any particular potential nominee as its nominee director.

- (b) The City of Mississauga may interview each such person or persons in camera and independent of any other member of the Board or its Nominating Committee. If the City of Mississauga rejects any one or more of such persons, acting reasonably, the City of Mississauga shall so notify the members of the Nominating Committee, the other Board members and Borealis and the Nominating Committee shall propose further persons for the City of Mississauga's consideration and so on from time to time until the City of Mississauga accepts a recommendation of the Nominating Committee and nominates such person or persons to be an Independent Director. The City of Mississauga may only nominate for the role as an Independent Director a person recommended to the City of Mississauga by the Nominating Committee; provided however that nothing herein shall restrict the City of Mississauga from recommending to the Nominating Committee a person or persons for the role of an Independent Director.
- (c) Attached hereto as Schedule B is a written charter that establishes the Nominating Committee's purpose, responsibilities, structure and operation. Any changes to such charter shall be subject to approval of the Board pursuant to Section 2.14(t). The Nominating Committee may, from time to time, engage and compensate such outside advisors that it determines to be necessary or advisable to permit it to carry out its duties.
- (d) In making its recommendations, the Nominating Committee should consider:
 - (i) the competencies and skills that the Board considers to be necessary for the Board, as a whole, to possess;
 - (ii) the competencies and skills that the Board considers each existing director to possess; and
 - (iii) the competencies and skills each new nominee will bring to the boardroom.

- 18 -

The Nominating Committee should also consider whether or not each new nominee can devote sufficient time and resources to his or her duties as a Board member.

ARTICLE 3- DEALING WITH SHARES

3.01 No Transfer of Shares

Except as expressly provided for in this Article Three, the Shareholders shall not sell, transfer or assign or in any other way dispose of their Shares or their rights under this Agreement without first complying with all of the provisions of this Agreement unless, prior to the disposition of their Shares, all of the Shareholders have consented in writing to such disposition.

3.02 Sale of Shares by the City of Mississauga

(1) Notwithstanding anything to the contrary in this Agreement, including without limitation the provisions of Section 3.01, but subject to the provisions of this Section 3.02, the City of Mississauga may sell some or all of its Shares to a Third Party Purchaser for cash provided that:

- (a) the City of Mississauga sells the same percentage of Shares of each class that it then holds to the same Third Party Purchaser;
- (b) such Third Party Purchaser agrees to become a party to this Agreement in the place of the City of Mississauga in respect of the Shares to be sold to the Third Party Purchaser, except if:
 - (i) the sale is made pursuant to an initial public offering of Shares of any class thereof;
 - (ii) the Shares, or any class thereof, will thereupon be listed on a major North American stock exchange; and
 - (iii) at a meeting of Shareholders called to consider the offering and listing in excess of 75% of the votes cast thereat are voted in favour of such actions;
- (c) the agreement entered into between the City of Mississauga and such Third Party Purchaser in respect of such transaction (the “**City-Third Party Purchase and Sale Agreement**”) also provides for the transactions contemplated by subsection 3.02(6) hereof;
- (d) the offer by the Third Party must be an offer to purchase only Shares and no other assets; and
- (e) the parties hereto at such time shall have amended this Agreement in accordance with the provisions of Section 3.07 prior to the closing of such sale.

(2) In the event that the City of Mississauga receives a *bona fide* written offer (a “**Third Party Offer**”) from any Third Party Purchaser to purchase any of the Shares that the City of Mississauga beneficially owns (the “**City Subject Shares**”) which Third Party Offer is acceptable

to the City of Mississauga, the City of Mississauga shall give written notice (the “**City Notice**”) thereof to Borealis. The City Notice must contain a copy of the City-Third Party Purchase and Sale Agreement that the City of Mississauga proposes to or has entered into with such Third Party Purchaser, a copy of the assumption agreement referred to in Section 3.02(6) and shall specify, if the City of Mississauga has determined to sell all of its Shares, whether or not it will be exercising its right under Section 3.02(5) to require Borealis to sell all of its Shares in accordance with the provisions of Section 3.02(5) if Borealis has not exercised its rights under this Section 3.02(2). Upon the City Notice being given, Borealis shall have a right to purchase all (but not less than all) of the City Subject Shares on the same terms and conditions as the City of Mississauga proposes to sell the City Subject Shares to the Third Party Purchaser, with such adjustment to the purchase price as provided for below. The City of Mississauga shall provide in a timely fashion such information as is in the possession of the City of Mississauga (which is not subject to a confidentiality or similar restriction that would preclude the disclosure of such information) about the Third Party Purchaser and any person that controls the Third Party Purchaser as Borealis may reasonably request.

Within forty-five (45) days of having received the City Notice, Borealis may elect to purchase all (but not less than all) of the City Subject Shares on the same terms and conditions as are contained in the Third Party Offer, except that to the extent that any tax (“**Transfer Tax**”), including without limitation tax payable under subsection 94(1) of the *Electricity Act, 1998* (Ontario) (as the same may be amended, superseded or replaced from time to time) (the “**Electricity Act**”) is payable on the sale of the City Subject Shares to Borealis and such Transfer Tax would not have been payable on the sale of the City Subject Shares to such Third Party Purchaser as contemplated by the Third Party Offer (the “**Incremental Transfer Tax**”), the purchase price payable by Borealis for the City Subject Shares shall be increased so that the City of Mississauga receives an amount equal to the sum it would have received had there been no Incremental Transfer Tax, less (i) any deduction, credit or other amount available to the City of Mississauga or its Affiliates or persons related to the Corporation (within the meaning of section 251 of the *Income Tax Act* (Canada)) in respect of the Transfer Tax payable on the sale of the City Subject Shares to Borealis, including, without limitation, any reduction of the Transfer Tax by reason of taxes payable by the Corporation and its Affiliates or persons related to the Corporation (within the meaning of section 251 of the *Income Tax Act* (Canada)) under subsection 93(1) of the *Electricity Act* and other amounts referred to in subsections 94(3), (4) and (7) of the *Electricity Act*; and (ii) any refund available to the City of Mississauga or its Affiliates or persons related to the Corporation (within the meaning of section 251 of the *Income Tax Act* (Canada)) in respect of the Transfer Tax payable on the sale of the City Subject Shares to Borealis or any tax benefit available to the City of Mississauga or its Affiliates or persons related to the Corporation (within the meaning of section 251 of the *Income Tax Act* (Canada)) by reason of the Transfer Tax payable on the sale of the City Subject Shares to Borealis; in the case of each of (i) and (ii) above, to the extent that such deduction, credit or other amount or such refund or benefit would not have been available on a sale of the City Subject Shares to such Third Party Purchaser as contemplated by the Third Party Offer. If Borealis elects to purchase all (but not less than all) of the City Subject Shares, Borealis shall provide the City of Mississauga with written notice thereof within such forty-five (45) day period and the transaction of purchase and sale shall be completed within thirty (30) days of Borealis providing the City of Mississauga with its notice of its intention to acquire the City Subject Shares in accordance with the terms set out in the Third Party Offer by delivery of the City Subject Shares by the City of Mississauga to Borealis with good title, free and clear of all liens, charges, encumbrances and any other rights of others against payment by Borealis of the purchase price therefor by bank draft or wire transfer.

- 20 -

(3) If the City of Mississauga defaults in transferring the City Subject Shares to Borealis as provided in Section 3.02(2), the Corporation is authorized and directed to receive the purchase money and thereupon to record the transfer of the City Subject Shares, to enter Borealis in the registers of the Corporation as the holder of the City Subject Shares purchased by it and to cause to be issued to Borealis share certificates for the City Subject Shares in the name of Borealis. The Corporation will hold the purchase money received by it in trust on behalf of the City of Mississauga and will not comingle the purchase money with the Corporation's assets, except that any interest thereon will be for the account of the Corporation. Receipt by the Corporation of the purchase money will be a good discharge to Borealis and, after its name has been entered in the registers of the Corporation, the transaction of purchase and sale will be deemed completed and the validity of the proceedings shall not be subject to question by any person, and Borealis will for all purposes own the City Subject Shares purchased by it. On such registration, the City of Mississauga will cease to have any right to or in respect of the City Subject Shares except to the right to receive, without interest, the purchase money received by the Corporation for and on behalf of the City of Mississauga upon surrender of any certificates that previously represented the City Subject Shares or a declaration of loss and indemnity in form acceptable to the Corporation, acting reasonably.

(4) If Borealis does not elect to purchase all (but not less than all) of the City Subject Shares, or defaults in its obligation to purchase all (but not less than all) of the City Subject Shares pursuant to Section 3.02(2), then for a period of forty-five (45) days thereafter the City of Mississauga may complete its sale of the City Subject Shares to the Third Party Purchaser on terms and conditions no more favorable to the Third Party Purchaser than were contained in the Third Party Offer. If the City Subject Shares are not sold within such forty-five (45) day period on such terms, the rights of Borealis pursuant to this Section 3.02 will again take effect.

(5) If after complying with the provisions of Sections 3.02(2) and (4) the City of Mississauga intends to sell all, but not less than all, of its Shares to the Third Party Purchaser, upon receipt of a written notification from the City of Mississauga of its intention to complete the purchase and sale contemplated in the City Notice in accordance with the terms thereof and the desire of the Third Party Purchaser to acquire all of Borealis' Shares, Borealis will be deemed to have accepted an offer from the Third Party Purchaser to purchase all (but no less than all) of its Shares on the same terms and conditions as those applicable to the sale by the City of Mississauga to the Third Party Purchaser of the City Subject Shares except that: (i) Borealis shall only be required to provide representations and warranties as to: (A) its existence; (B) its authority to enter into the transaction and the enforceability thereof in relation to itself; and (C) its ownership of its Shares, free and clear of all liens, charges, encumbrances and rights of others; and (ii) if the Shares to be sold by Borealis include Class C Shares, the price payable by the Third Party Purchaser to Borealis for its Class C Shares, shall be equal to the Equivalent Price per Class C Share. If Borealis is obligated to sell in accordance with the foregoing provisions of this Section 3.02(5) and defaults in transferring any of the Shares that it is obligated to transfer to the Third Party Purchaser as provided for in this Section 3.02(5) the Corporation is authorized and directed to receive the purchase money and thereupon to record the transfer of Shares, to enter the name of the Third Party Purchaser in the registers of the Corporation as the holder of the Shares purchased by the Third Party Purchaser from Borealis, and cause to be issued to the Third Party Purchaser share certificates for such Shares in the name of the Third Party Purchaser. The Corporation will hold the purchase monies received by it in trust on behalf of Borealis and will not comingle the purchase money with the Corporation's assets, except that any interest accruing thereon will be for the account of the

- 21 -

Corporation. The receipt by the Corporation of the purchase money will be a good discharge to the Third Party Purchaser and, after the name of the Third Party Purchaser has been entered in the registers of the Corporation as the holder of the Shares purchased by it from Borealis, the purchase and sale will be deemed completed at the price and on the terms and conditions contemplated herein and the Third Party Purchaser will for all purposes own the Shares purchased by it from Borealis. Upon such registration, Borealis will cease to have any right to or in respect of the Shares sold by it to the Third Party Purchaser except the right to receive, without interest, the purchase money received by the Corporation upon surrender of any certificates that previously represented such shares or a declaration of loss and indemnity in form acceptable to the Corporation, acting reasonably.

(6) If: (i) Borealis has not elected to purchase the City Subject Shares pursuant to Section 3.01(2); and (ii) following the sale by the City of Mississauga of the City Subject Shares to the Third Party Purchaser the Third Party Purchaser will directly or indirectly beneficially own 50% or more of the Voting Shares in the capital of the Corporation, then Borealis shall have the right (but not the obligation) to require that the Third Party Purchaser acquire all (but not less than all) of its Shares on the same terms and conditions as those applicable to the sale by the City of Mississauga of the City Subject Shares except that: (i) Borealis shall only be required to provide representations and warranties as to; (A) its existence; (B) its authority to enter into the transaction and the enforceability of the assumption agreement referred to below; and (C) its ownership of its Shares, free and clear of all liens, charges, encumbrances and rights of others; and (ii) if the Shares to be sold by Borealis include Class C Shares, the price payable by the Third Party Purchaser to Borealis for its Class C Shares shall be the Equivalent Price per Class C Share. If Borealis elects to sell all of its Shares to the Third Party Purchaser, it shall provide written notice thereof to the City of Mississauga, which notice must be given within forty-five (45) days of Borealis having received the City Notice, and it shall thereupon execute and deliver an assumption agreement to be bound by the City-Third Party Purchase and Sale Agreement (the form of which assumption agreement shall accompany the City Notice). If Borealis gives notice to the City of Mississauga as aforesaid, then the City of Mississauga shall only sell the City Subject Shares to the Third Party Purchaser if contemporaneous therewith, the Third Party Purchaser acquires from Borealis all of its Shares in accordance with the provisions of this Section 3.02(6).

(7) Notwithstanding the foregoing, if the City of Mississauga has received more than one offer for the purchase of the City Subject Shares and has elected to sell the City Subject Shares to the Third Party Purchaser specified in the City Notice at a purchase price that is lower than the price that another *bona fide* third party purchaser has offered to the City of Mississauga, then the price payable to Borealis pursuant to Sections 3.02(5) or (6), as the case may be, shall be based on the highest of such offers and not on the price offered by the Third Party Purchaser specified in the City Notice; provided however that this Section 3.02(7) shall not apply in the event that the Council, acting reasonably and on the advice of its financial and legal advisors, determines that such other third party offer is subject to any condition or contingency, including without limitation as to financing, that is not reasonably capable of satisfaction on terms and conditions that would be acceptable to the City of Mississauga, acting reasonably. The City of Mississauga shall forthwith provide Borealis with notice of any such determination and copies of such other offer as aforesaid.

- 22 -

3.03 **Sale of Shares by Borealis**

(1) Notwithstanding anything to the contrary in this Agreement, including without limitation Section 3.01, but subject to the provisions of this Section 3.03, Borealis may sell some or all of its Shares to any Third Party Purchaser provided that:

- (a) Borealis sells the same percentage of Shares of each class that it then holds to the same Third Party Purchaser;
- (b) such Third Party Purchaser agrees to become a party to this Agreement in the place of Borealis in respect of the Shares to be sold to the Third Party Purchaser, except if:
 - (i) the sale is made pursuant to an initial public offering of Shares of any class thereof;
 - (ii) the Shares, or any class thereof, will thereupon be listed on a major North American stock exchange; and
 - (iii) at a meeting of Shareholders called to consider the offering and listing in excess of 75% of the votes cast thereat are voted in favour of such actions; and
- (c) the parties hereto at such time shall have amended this Agreement in accordance with the provisions of Section 3.07 prior to the closing of such sale.

(2) In the event that Borealis receives a *bona fide* written offer (a “**Third Party Offer**”) from any Third Party Purchaser to purchase any of the Shares Borealis beneficially owns (the “**Borealis Subject Shares**”) which Third Party Offer is acceptable to Borealis, Borealis shall give written notice (the “**Borealis Notice**”) thereof to the City of Mississauga. The Borealis Notice must contain a copy of the agreement in respect of such transaction (the “**Borealis-Third Party Purchase and Sale Agreement**”) that it proposes to or has entered into with such Third Party Purchaser. Upon the Borealis Notice being given, the City of Mississauga shall have the right to purchase all (but not less than all) of the Borealis Subject Shares on the same terms and conditions as Borealis proposes to sell the Borealis Subject Shares to the Third Party Purchaser. Borealis shall provide in a timely fashion such information as is in the possession of Borealis (which is not subject to a confidentiality or similar restriction that would preclude the disclosure of such information) about the Third Party Purchaser and any person that controls the Third Party Purchaser as the City of Mississauga may reasonably request.

Within forty-five (45) days of having received the Borealis Notice, the City of Mississauga may elect to purchase all (but not less than all) of the Borealis Subject Shares on the same terms and conditions as contained in the Third Party Offer. If the City of Mississauga elects to purchase all (but not less than all) of the Borealis Subject Shares, the City of Mississauga shall provide Borealis with written notice thereof within such forty-five (45) day period and the transaction of purchase and sale shall be completed within thirty (30) days of the City of Mississauga providing Borealis with its notice of its intention to acquire the Borealis Subject Shares in accordance with the terms set out in the Third Party Offer by delivery of the Borealis Subject Shares by Borealis to the City of Mississauga with good title, free and clear of all liens,

- 23 -

charges, encumbrances and any other rights of others against payment by the City of Mississauga of the purchase price therefor by bank draft or wire transfer.

(3) If Borealis defaults in transferring the Borealis Subject Shares to the City of Mississauga as provided in Section 3.03(2), the Corporation is authorized and directed to receive the purchase money and thereupon to record the transfer of the Borealis Subject Shares, to enter the City of Mississauga in the registers of the Corporation as the holder of the Borealis Subject Shares purchased by it and to cause to be issued to the City of Mississauga share certificates for the Borealis Subject Shares in the name of the City of Mississauga. The Corporation will hold the purchase money received by it in trust on behalf of Borealis and will not commingle the purchase money with the Corporation's assets, except that any interest thereon will be for the account of the Corporation. Receipt by the Corporation of the purchase money will be a good discharge to the City of Mississauga and, after its name has been entered in the registers of the Corporation, the transaction of purchase and sale will be deemed completed and the validity of the proceedings shall not be subject to question by any person, and the City of Mississauga will for all purposes own the Borealis Subject Shares purchased by it. On such registration, Borealis will cease to have any right to or in respect of the Borealis Subject Shares except the right to receive, without interest, the purchase money received by the Corporation for and on behalf of Borealis upon surrender of any certificates that previously represented the Borealis Subject Shares or a declaration of loss and indemnity in form acceptable to the Corporation, acting reasonably.

(4) If the City of Mississauga does not elect to purchase all (but not less than all) of the Borealis Subject Shares, or defaults in its obligations to purchase all (but not less than all) of the Borealis Subject Shares pursuant to Section 3.03(2), then for a period of forty-five (45) days thereafter, Borealis may complete its sale of the Borealis Subject Shares to the Third Party Purchaser on terms and conditions no more favourable to the Third Party Purchaser than were contained in the Third Party Offer. If the Borealis Subject Shares are not sold within such forty-five (45) day period on such terms, the rights of the City of Mississauga pursuant to the Section 3.03 will again take effect.

3.04 **Sale of Shares – Class B**

A Shareholder may not sell, transfer or assign or in any other way dispose of its Class B Shares except in conjunction with a sale of Class A Shares or Class C Shares as provided in Section 3.02 or Section 3.03 and shall sell the same percentage of its Class B Shares as it sells of its Class A Shares and/or Class C Shares to the same person.

3.05 **Reorganizational Matters**

(1) Subject to the agreement of all the Shareholders, the Shareholders may agree to consider effecting a reorganization of the capital of the Corporation pursuant to which the Corporation would file articles of amendment in the form attached as Schedule A to this Agreement which articles of amendment would (in the following order):

- (a) subdivide the number of outstanding Class C Shares so that there are outstanding a number of Class C Shares that is equal to $1/10^{\text{th}}$ of the number of Class A Shares then outstanding; and

- 24 -

- (b) redesignate the Class A Shares, the Class B Shares and the Class C Shares as common shares in the capital of the Corporation.

The Shareholders agree that immediately following any such reorganization of the capital of the Corporation, the City of Mississauga will own 90% of the Common Shares and Borealis will own 10% of the Common Shares. The implementation of such reorganization shall be subject to:

- (i) obtaining the necessary approval from the Minister of Energy and Infrastructure under section (9) of Regulation 124/99 of the Electricity Act;
- (ii) the approval of the Board as provided in Section 2.14;
- (iii) each Shareholder being satisfied, in its sole discretion, that such change does not create adverse tax consequences to either such Shareholder or the Corporation and its Subsidiary Entities; and
- (iv) each Shareholder being satisfied with any amendments to this Agreement that may be necessary or advisable as a result thereof and the Shareholders and the Corporation entering into an amending agreement to give effect thereto.

(2) The Shareholders acknowledge and agree that, in connection with any proposed sale of Shares permitted by this Agreement, it may be necessary or desirable to reorganize the share capital of the Corporation and/or its Subsidiary Entities and/or the manner in which such share capital is held by the Corporation and/or the Shareholders, as the case may be. Accordingly, the Shareholders hereby agree to co-operate with each other, to negotiate in good faith, and to effect any such reorganization; provided however that no Shareholder shall be required to effect any aspect of any proposed reorganization to the extent that it would have a material adverse effect on the Corporation, such Shareholder, the Shareholder's interest in the Corporation or any diminution of the value of such Shareholders' interest in the Corporation, as determined by such Shareholder in its sole and absolute discretion.

3.06 Preemptive Rights

If any additional shares of the Corporation are to be issued from treasury, the Corporation will first offer such shares to the Shareholders by notice given to them of the Corporation's intention to issue additional shares and the number and class thereof to be so issued. The Shareholders will have the right to purchase the shares so offered *pro rata* based upon their proportionate share of the voting rights attaching to all of the then outstanding shares in the capital of the Corporation. Each Shareholder will have twenty (20) Business Days from the date such notice is given to take up and pay for any of the shares so offered to the Shareholder. The shares that have not been taken up and paid for within the twenty (20) Business Days will be offered again by the Corporation by notice given to those Shareholders who took up and paid for all the Shares initially offered to them, and each of such Shareholders will have the right to purchase the shares so offered at the date notice is given of such subsequent offer. Such Shareholders will have twenty (20) Business Days from the date such subsequent notice is given to take up and pay for any of the shares so offered, and so on from time to time until all the shares have been taken up or until all the Shareholders have refused to take up any more, in which latter event the shares not so taken up may be issued to such persons as the directors in their discretion determine, provided that

- 25 -

such persons agree to be bound by this Agreement and to become parties hereto. Notwithstanding the foregoing, no Class C Shares shall be issued, except to Borealis.

3.07 **Amendment**

If at any time pursuant to the provisions of Section 3.02 or 3.03, it is proposed that either Borealis or the City of Mississauga will sell some (but not all) of its shares to a Third Party Purchaser, or if shares are to be issued to a person pursuant to Section 3.06 who is not then a party to this Agreement, then notwithstanding the other terms and conditions hereof, such purchase and sale or issuance shall not occur until Article 3 of this Agreement has been amended so that it contemplates more than just Borealis and the City of Mississauga as Shareholders. The Shareholders hereby agree to co-operate with each other and to act in good faith in settling the required amendments in a timely manner. The amendments to this Agreement required pursuant to this Section shall be effected so as not to have an adverse effect on the interests hereunder of any Shareholder.

3.08 **Transfer to Permitted Transferees**

Notwithstanding any other provision of this Agreement, but subject to the receipt of any required regulatory approvals, a Shareholder shall be entitled, after giving notice to the other Shareholders and to the Corporation, to transfer all, but not less than all of the Shares owned by it to an Affiliate of that Shareholder that is directly or indirectly wholly owned by such Shareholder, or in the case of Borealis, to an Affiliate of OMERS Administration Corporation that is directly or indirectly wholly owned by OMERS Administration Corporation, (the "**Permitted Transferee**"). It shall be a condition to the completion of any transfer of Shares to a Permitted Transferee under this Section 3.08 that, at the closing of such transfer, the Shareholder and the Permitted Transferee enter into an Assumption Agreement. The transfer of Shares to any Permitted Transferee shall not relieve the transferor of any of its agreements, covenants or obligations hereunder unless the net worth of the Permitted Transferee is equal to or greater than that of the Transferor in which case the Transferor shall be released of its agreements, covenants and obligations hereunder and the other Shareholders and the Corporation shall provide such confirmations thereof as the Transferor may reasonably request.

ARTICLE 4- GENERAL

4.01 **Benefit of the Agreement**

This Agreement shall enure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto.

4.02 **Entire Agreement**

This Agreement constitutes the entire agreement between the parties hereto with respect to the Shareholders' relationship as shareholders of the Corporation and cancels and supersedes any prior understandings and agreements between the parties hereto with respect thereto, including without limitation the Original Shareholders' Agreement. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or statutory, between the parties other than as expressly set forth in this Agreement.

- 26 -

4.03 **Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

4.04 **Amendments and Waivers**

No amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by the Shareholders. No waiver of any breach of any provision of this Agreement shall be effective or binding unless made in writing and signed by the Shareholder purporting to give the same and, unless otherwise provided in the written waiver, shall be limited to the specific breach waived.

4.05 **Assignment**

Except as may be expressly provided in this Agreement, no Shareholder may assign its right or obligations under this Agreement without the prior written consent of the other Shareholders unless such assignment is made to a purchaser of Shares from such Shareholder in accordance with the provisions Article 3. In the event of the sale, transfer or assignment of a Shareholder's Shares or any portion thereof the purchaser thereof shall become a party hereto and shall be bound by the terms of this Agreement. The Corporation may not assign its rights or obligations hereunder without the consent of all of the Shareholders.

4.06 **Termination**

This Agreement shall terminate upon:

- (a) the written agreement of the Shareholders;
- (b) the dissolution or bankruptcy of the Corporation or the making by the Corporation of an assignment or filing under the provisions of the *Companies Creditors Arrangement Act* (Canada) or the *Bankruptcy and Insolvency Act* (Canada);
- (c) one Shareholder becoming the beneficial owner of all of the Shares; or
- (d) an initial public offering of the shares in the capital of the Corporation; provided that the shares in the capital of the Corporation thereupon become listed on a major North American stock exchange; and further provided that at a meeting of Shareholders called to consider the offering and listing in excess of 75% of the votes cast thereat are voted in favour of such actions.

4.07 **Severability**

If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provision hereof shall continue in full force and effect.

- 27 -

4.08 Notices

Any demand, notice or other communication (hereinafter in this Section 4.08 referred to as a “**Communication**”) to be given in connection with this Agreement shall be given in writing and may be given by personal delivery, by registered mail or by transmittal by facsimile addressed to the recipient as follows:

(a) To:

City of Mississauga
300 City Centre Drive
Mississauga, Ontario
L5B 3C1

Facsimile No: (905) 896-5106
Attention: City Solicitor

With a copy to:

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, Ontario
M5L 1B9

Facsimile No: (416) 947-0866
Attention: Jeffrey M. Singer

(b) To:

BPC Energy Corporation
11 King Street West
Suite 1150
Toronto, Ontario
M5H 4C7

Facsimile No: (416) 362-5675
Attention: Chief Executive Officer

(c) To:

Enersource Corporation
3240 Mavis Road
Mississauga, Ontario
L5C 3K1

Facsimile No: (905) 566-2737
Attention: President

- 28 -

4.09 **Counterparts and Facsimile**

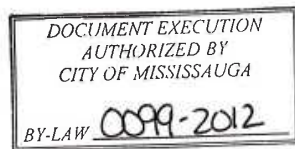
This Agreement may be executed by the parties by facsimile and in separate counterparts, each of which when so executed shall be deemed to be an original and all of which together shall constitute one and the same Agreement.

[Signature Pages to Follow]

- 29 -

IN WITNESS WHEREOF the parties have executed this Agreement.

**THE CORPORATION OF THE CITY OF
MISSISSAUGA**



Per: _____

Name: _____

Title: _____

[Handwritten Signature]

George Carlson

Acting Mayor

Per: _____

Name: _____

Title: _____

[Handwritten Signature]

Crystal Greer

City Clerk

I/We have authority to bind the Corporation.

BPC ENERGY CORPORATION

Per: _____

Name: _____

Title: _____

[Handwritten Signature]

Rick Byers
Executive Vice President

Per: _____

Name: _____

Title: _____


[Handwritten Signature]

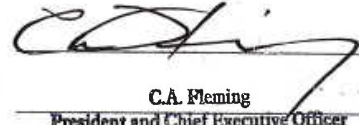
Michael A. Kelly
Director

I/We have authority to bind the Corporation.

- 30 -

ENERSOURCE CORPORATION

Per: 
Name: NORM LOBERG
Title: CHAIR

Per: 
Name: C.A. Fleming
Title: President and Chief Executive Officer
Enersource Corporation

I/We have authority to bind the Corporation.

ARTICLES OF AMENDMENT

À l'usage exclusif du ministère

Numéro de la société en Ontario

1431339

STATUTS DE MODIFICATION

sociétés par
actions

- Dénomination sociale actuelle de la société (écrire en LETTRES MAJUSCULES SEULEMENT) :

[illegible]

- Nouvelle dénomination sociale de la société (s'il y a lieu) (écrire en LETTRES MAJUSCULES SEULEMENT) :

--

- Date de la constitution ou de la fusion :

(Year, Month, Day)

- Il faut remplir cette partie seulement si le nombre d'administrateurs ou si le nombre minimal ou maximal d'administrateurs a changé.

nombre minimum et maximum d'administrateurs :

minimum et maximum

3	12
---	----

- Les statuts de la société sont modifiés de la façon suivante :

2. To reclassify the issued and unissued Class A Shares as Common Shares.

1(a)

3. To reclassify the issued and unissued Class B Shares as Common Shares.
4. To subdivide and change the existing 100 issued and outstanding Class C Shares into 20,061,729 issued and outstanding Common Shares.
5. To declare that effective upon the issuance of the Certificate of Articles of Amendment as provided herein the authorized capital of the Corporation shall consist of an unlimited number of Common Shares and all other authorized and unissued share capital inconsistent with the foregoing is hereby cancelled.

6. The amendment has been duly authorized as required by sections 168 and 170 (as applicable) of the *Business Corporations Act*.
La modification a été dûment autorisée conformément aux articles 168 et 170 (selon le cas) de la *Loi sur les sociétés par actions*.
7. The resolution authorizing the amendment was approved by the shareholders/directors (as applicable) of the corporation on
Les actionnaires ou les administrateurs (selon le cas) de la société ont approuvé la résolution autorisant la modification le

(Year, Month, Day)
(année, mois, jour)

These articles are signed in duplicate.
Les présents statuts sont signés en double exemplaire.

ENERSOURCE CORPORATION

(Print name of corporation from Article 1 on page 1)
(Veuillez écrire le nom de la société de l'article un à la page une).

By/
Par :

(Signature)
(Signature)

(Description of Office)
(Fonction)

SCHEDULE "B"

ENERSOURCE CORPORATION

NOMINATING COMMITTEE CHARTER AND TERMS OF REFERENCE

I. PURPOSE

Reference is made to that certain amended and restated shareholders' agreement between the Corporation, BPC Energy Corporation ("**Borealis**") and The Corporation of the City of Mississauga (the "**City**", and together with Borealis, the "**Shareholders**") (the "**Shareholders' Agreement**").

Pursuant to the constating documents of the Corporation, including without limitation the Shareholders' Agreement, the Board of Directors of the Corporation is to consist of ten (10) directors, of which the City is entitled to nominate nine directors. Of such nine (9) directors to be nominated by the City, at least six (6) directors must be Independent and have been recommended to the City by the Committee in accordance with the provisions of section 2.20(2) of the Shareholders' Agreement. The Shareholders have agreed, among other things, to vote their respective Shares to elect as directors the individuals nominated from time to time by the City.

The purpose of the Committee therefore is to assist the City in the identification of qualified individuals deemed appropriate for nomination as directors by the City.

II. COMPOSITION & STRUCTURE

The Committee will be comprised of four directors, of which one (1) director (the "**City Member**") shall be designated by the City (who may, but need not be an Independent Director (as defined in the Shareholders' Agreement) and the remaining three (the "**Independent Members**") shall be Independent Directors designated by the Board of Directors.

Members of the Committee shall serve until such member's successor is duly appointed or until such member's earlier resignation or removal.

The Independent Members shall be appointed and may be removed, with or without cause, by a majority vote at a meeting of the Board of Directors. The Board of Directors shall appoint, remove and replace the City Member as soon as practicable following its receipt of written direction from the City to such effect.

The Committee shall have a Chair, who shall be an Independent Member. The Chair shall be appointed and may be removed by a majority vote at a meeting of the Board of Directors. The Chair shall not be entitled to cast a second or casting vote to resolve any ties. The Chair will chair all regular sessions of the Committee and set the agendas for Committee meetings.

In fulfilling its responsibilities the Committee shall not be entitled to delegate any or all of its responsibilities to a subcommittee of the Committee.

- 2 -

III. MEETINGS & OPERATION

The Committee shall meet as circumstances dictate. Any member of the Committee may call meetings of the Committee. All meetings of the Committee may be held telephonically.

Minutes of the meetings shall be prepared and provided to the members of the Committee and to the Board of Directors.

Additionally, the Committee may invite to its meetings any director or officer of the Corporation or any other persons as it deems necessary or desirable in order to carry out its responsibilities.

A quorum for the conduct of business at any meeting of the Committee shall require at least a majority of its members be present; provided that a majority of those present must be Independent Directors. In order to be effective, any resolution of the Committee must be approved by the affirmative vote of at least three (3) directors, provided that at least two (2) of those approving are also Independent Directors.

IV. RESPONSIBILITIES & PROCEDURES

In discharging its responsibilities, the Committee shall:

1. Establish criteria for the selection of Independent Directors to serve on the Board of Directors. In setting criteria for the selection of new directors, the Committee shall take into consideration the competencies and skills that the Board of Directors considers to be necessary for the Board of Directors as a whole, to possess, that the Board of Directors considers each existing director to possess, and that each new possible candidate will bring to the Board of Directors, and in so doing shall take into account all factors it considers appropriate, including (among others):
 - (a) That the Board of Directors, as a whole, is diverse and consists of individuals with various and relevant career experience, technical skills, industry knowledge and experience, experience in corporate governance, leadership resources, compensation, mergers and acquisitions, legal, banking and/or marketing experience, and financial expertise and literacy;
 - (b) Ensuring that Independent Directors reside in the City of Mississauga, have sufficient local or community ties, and general knowledge of public / private partnerships and the unique aspects of public accountability;
 - (c) Minimum individual qualifications, including (among others) strength of character, mature judgment, proven leadership track-record, familiarity with the Company's business and industry, independence of thought, a strong ability to communicate and work collegially; and
 - (d) The extent to which a candidate would fill a present need on the Board of Directors.

- 3 -

2. Identify individuals believed to be qualified as candidates to serve on the Board of Directors. In the process of identifying such individuals, the Committee shall (among other things), if requested by the City:
 - (a) Conduct a public call for directors involving the publication of notice of the position and process, and the holding of an information session to be held at a time and location in the City of Mississauga acceptable to the City, acting reasonably;
 - (b) Prepare an application for delivery to and completion by prospective candidates, in form and substance satisfactory to the City, acting reasonably; and
 - (c) Permit the City or its staff to participate in the foregoing as may be necessary for the purposes of ensuring compliance with all applicable laws, rules and regulations.
3. Evaluate candidates for nomination to the Board of Directors, including those suggested by the City (it being acknowledged that the Committee would not be under any obligation to recommend any such candidate to the City for nomination by the City as a director).
4. Conduct customary and appropriate inquiries into the backgrounds and qualifications of possible candidates.
5. Consider questions of independence and possible conflicts of interest of possible candidates with the Corporation, its officers and shareholders. In considering issues of independence the Committee shall make all reasonable efforts to ensure that each candidate ultimately recommended by the Committee to the City for nomination by the City as a director are Independent for purposes of the Shareholders' Agreement. The current definition of "Independent" for purposes of the Shareholders' Agreement is set out in Appendix I hereto and may be amended or modified from time to time by joint written notice to such effect given by the City and Borealis.
6. Review and make recommendations, as the Committee deems appropriate, to the City as regards possible candidates for nomination by the City as directors. In this connection, the Committee shall (i) provide the City with one (1) additional potential nominee director in excess of the number of directors required to be nominated at the particular time in the event that the number of directors required to be nominated at that time is four (4) or fewer directors, and two (2) additional potential nominee directors in the event that the number of directors required to be nominated at the particular time is greater than four (4) directors; (ii) consider possible candidate directors that may be proposed for consideration by the Committee by the City (provided that the Committee is under no obligation to recommend any such possible candidate for nomination by the City as a director), and (iii) provide the City with the reasons for its recommendations in respect of each possible candidate having regard to the matters referred to in paragraph IV.1 above.
7. Recommendations to the City as regards possible candidates for nomination by the City as directors shall be approved by the Committee by a resolution passed as provided in paragraph III hereof.

- 4 -

V. LIMITATIONS ON AUTHORITY

8. Each member of the Committee shall be obligated to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Nothing herein is intended to impose upon any member of the Committee a standard of care or diligence that is in any way more onerous or extensive than the standard to which the directors are subject.
9. The Committee shall not have any authority nor shall it engage in any activity beyond that related to its purpose herein.
10. The Committee shall be entitled to engage such consultants and advisors as it deems necessary or advisable in the circumstances.

- 5 -

APPENDIX I DEFINITIONS

“Council” means, at any time, the City Council at such time of the City of Mississauga.

“Independent” means an individual who does not have a direct or indirect material relationship with any of the Corporation, a Subsidiary Entity of the Corporation, a Shareholder or a member of Council (collectively, the **“Subject Persons”**). For the purposes hereof, a **“material relationship”** is a relationship which could, in the view of a reasonable person, having regard to all relevant facts and circumstances, be reasonably expected to interfere with or influence the exercise of such individual’s independent judgment. For greater certainty, the following individuals are considered to have a material relationship with a Subject Person:

- (i) an individual who is, or has been within the last three (3) years, a director, trustee, partner, officer or employee of the Subject Person or any of its Associates;
- (ii) an individual whose family member is, or has been within the last three (3) years, a director, trustee, partner, officer or employee of the Subject Person or any of its Associates;
- (iii) an individual who has received, or who is a director, trustee, partner, member, officer or employee of a firm or other enterprise that has received, more than seventy-five thousand (\$75,000) dollars in compensation from the Subject Person or its Associates during any twelve (12) month period within the last three (3) years; and
- (iv) an individual who is a family member of the Subject Person.

“Independent Director” means a director of the Corporation who is Independent.

**SCHEDULE C
ASSUMPTION AGREEMENT**

TO: The parties to the Shareholders' Agreement referred to below (the "**Parties**")

RE: Shareholders' Agreement (the "**Shareholders' Agreement**") made as of June 1, 2012 between the Corporation of the City of Mississauga, BPC Energy Corporation and Enersource Corporation (the "**Corporation**")

WHEREAS ● (the "**Transferor**") has transferred ● shares of the Corporation (the "**Shares**") to ● (the "**Transferee**");

AND WHEREAS the Shareholders' Agreement requires that this assumption agreement be entered into in such circumstances;

AND WHEREAS the Transferee has agreed to observe and be bound by the terms of the Shareholders' Agreement so that the provisions thereof will govern the rights and obligations among the Parties and the parties hereto regarding the Corporation, including without limitation, the sale of shares of the Corporation under certain circumstances;

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which is hereby irrevocably acknowledged, the undersigned, intending to be legally bound hereby, hereby covenant and agree as follows:

11. The Transferee acknowledges that the foregoing recitals are true and correct and acknowledges having received and reviewed a copy of the Shareholders' Agreement.
12. The Transferee covenants and agrees to be bound by the terms of the Shareholders' Agreement in the same manner as if the Transferee had been an original party thereto and to the same extent as **[and in the place and stead of]** the Transferor.
13. The Transferee hereby represents and warrants as follows:
 - (a) it has purchased the Shares as principal, for its own account and not as agent, trustee or representative for any other person;
 - (b) it is the registered and beneficial owner of the Shares; and
 - (c) the Shares are free and clear of all liens, charges, encumbrances and rights of others, other than any rights of the Parties pursuant to the Shareholders' Agreement.
14. The Transferor hereby represents and warrants as follows:
 - (a) The Transferor or, in the case of BPC Energy Corporation, OMERS Administration Corporation is the direct or indirect beneficial owner of all of the issued and outstanding shares in the capital of the Transferee and, if applicable, securities convertible into shares in the capital of the Transferee;

- 2 -

- (b) such shares and/or securities are free and clear of all liens, charges, encumbrances and rights of others; and
- (c) no person has any agreement or option or any right capable of becoming an agreement or option for the issuance or subscription of any of the unissued shares and/or securities convertible into shares of the Transferee.

15. The representations and warranties of the Transferee and the Transferor herein shall survive the execution and delivery of this Agreement.

[NTD: The following provision is to be used in the circumstance where the net worth of the Transferee is less than that of the Transferor.]

16. (a) **The Transferor acknowledges and agrees that the transfer of the Shares to the Transferee and the covenants of the Transferee contained herein shall not act to relieve the Transferor of its agreements, covenants or obligations under the Shareholder Agreement. Unless and until released, the Transferor and the Transferee shall be co-obligors in respect of such agreements, covenants and obligations.**

[NTD: The following provision is to be used in the circumstance where the net worth of the Transferee is equal to or greater than that of the Transferor.]

- (b) **The Transferor is hereby released of its agreements, covenants and obligations under the Shareholders Agreement and of any liability relating thereto.**

17. The Transferee hereby covenants and agrees to transfer the Shares back to the Transferor or to a Permitted Transferee of the Transferor if the Transferee ceases to be a Permitted Transferee of the Transferor. In the event of a transfer back to the Transferor, the Transferor shall again become bound by the Shareholders' Agreement and in the event of a transfer to a Permitted Transferee, the relevant parties shall execute and deliver an agreement in the form of this Agreement.

18. All notices, requests, demands or other communications (collectively, "**notices**") by the terms of the Shareholders' Agreement required or permitted to be given to the Transferee shall be addressed as follows:

[name of the Transferee] [address]

Attention: ●

Facsimile: ●

and shall be given in the manner provided in the Shareholders Agreement.

19. Unless otherwise specifically defined herein or unless the context otherwise requires, terms used herein which are defined in the Shareholders' Agreement shall have the meanings ascribed to such terms in the Shareholders' Agreement.

- 3 -

20. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall enure to the benefit of and be binding upon the undersigned and their heirs, executors, administrators, successors and permitted assigns.

IN WITNESS WHEREOF the undersigned have duly executed this Agreement as of the ● day of ●, ●.

Transferor

by:

Transferee

by:

Acknowledged and agreed to
this ● day of ●, ●.

Shareholder

by:

Enersource Corporation

by: