

# INTER-CORPORATE SERVICES AGREEMENT

AGREEMENT made this 10<sup>th</sup> day of February 2021.

## **BETWEEN:**

**THE CORPORATION OF THE TOWN OF HEARST**  
hereinafter called 'Town of Hearst'  
OF THE FIRST PART

- and -

**HEARST POWER DISTRIBUTION CO. LIMITED**  
hereinafter called 'Hearst Power Distribution'  
OF THE SECOND PART

WHEREAS the Corporation of The Town of Hearst is incorporated pursuant to an Order of the Province of Ontario dated June 19<sup>th</sup>, 1922 and Hearst Power Distribution Company Limited is incorporated under the laws of the Province of Ontario pursuant to an order of the Corporation of the Town of Hearst by the passing of By-law 53-2000 on October 30, 2000;

AND WHEREAS Hearst Power Distribution is a "distributor" as defined in the Electricity Act, 1998;

AND WHEREAS the Town of Hearst is sole shareholder of Hearst Power Distribution;

AND WHEREAS Hearst Power Distribution is a provider of services for the Town of Hearst, including billing customers for the consumption of potable water and wastewater;

AND WHEREAS the Town of Hearst is likewise a provider of services for Hearst Power Distribution, including client reception and cashier, payroll, office premises, office equipment, communication, insurance and grounds keeping;

AND WHEREAS Hearst Power Distribution and the Town of Hearst are affiliates within the meaning of the Business Corporations Act, R.S.O. 1990, as amended;

AND WHEREAS the Town of Hearst and Hearst Power Distribution provide and desire to continue to provide Shared Support Services for each other;

AND WHEREAS the purpose of this Agreement is to describe the Shared Support Services to be provided between the Town of Hearst and Hearst Power Distribution and the fees and charges to be paid for such Shared Support Services.

NOW THEREFORE in consideration of the mutual covenants and agreements contained in this Agreement and the payment of the sum of TWO DOLLARS (\$2.00) each to the others, the receipt and sufficiency of which is hereby acknowledged, the Town of Hearst and Hearst Power Distribution (together the "Parties") agree with each other as follows:

## **1. DEFINITIONS AND INTERPRETATION**

1.1. The following words and expressions wherever used in this Agreement shall have the following meanings, unless the context expressly or by necessary implication, otherwise requires:

(a) "Agreement" means this Inter-Corporate Services Agreement and any subsequent amendments thereto.

(b) "Code" means the OEB Affiliate Relationships Code for Electricity Distributors and Transmitters revised March 15, 2010, and any amendments or revisions thereto.

- (c) "Confidential Information" means information obtained by the Town of Hearst and Hearst Power Distribution relating to a specific smart sub-metering provider, wholesaler, consumer, retailer or generator in the process of providing current or prospective utility service, information pertaining to employees and such other information deemed confidential under the Freedom of Information and Protection of Privacy Act.
- (d) "Fully Allocated Cost" means the sum of direct costs plus a proportional share of indirect costs.
- (e) "Indirect Costs" means costs that cannot be identified with a specific unit of product or service or with a specific operation or cost centre, and includes, but is not limited to, overhead costs, administrative and general expenses and taxes.
- (f) "Information Services" means computer systems, service databases and persons knowledgeable about Hearst Power Distribution's information technology systems, and includes programming services.
- (g) "OEB" means the Ontario Energy Board.
- (h) "Parties" means the Corporation of the Town of Hearst and Hearst Power Distribution Company Limited collectively, and "Party" means any one of them as the case may be.
- (i) "Qualifying Facility" means a generation facility or an energy storage facility that meets the requirements set out in subsection 71(3) of the Ontario Energy Board Act, 1988;
- (j) "Representatives" means any employee, agent or subcontractor of the Party in question, including without limitation any third party retained to perform any or all of the Shared Support Services pursuant to this Agreement.
- (k) "Term" shall have the meaning prescribed to it in Article 2 of this Agreement.
- (l) "Shared Support Services" means shared support services of an administrative support nature delivered by each Party's own human and physical resources that include billing and collection, client account administration, client reception and payment, payroll, office premises, office equipment, information technology, storage space, communication, insurance and such other support services as may be justifiably and beneficially shared by the Parties from time to time.

## **2. TERM AND TERMINATION**

- 2.1. The Parties agree that, notwithstanding any provision contained therein, any prior agreements for Shared Support Services made between them will be terminated effective December 31st, 2020.
- 2.2. This Agreement shall be deemed to have commenced on January 1st, 2021 and terminate on December 31st, 2023 unless terminated by one of the Parties as permitted in this Agreement or unless otherwise directed by the OEB.
- 2.3. This Agreement may be terminated by any one of the Parties upon one hundred and eighty (180) days written notice to the other Party.

### 3. SHARED SUPPORT SERVICES

- 3.1. Hearst Power Distribution will provide to the Town of Hearst the Shared Support Services set out in Schedule A attached hereto and forming part of this Agreement, and any additional services required by The Town of Hearst from time to time that can be justifiably and beneficially offered by Hearst Power Distribution. The request shall be within notice, reasonable in the circumstances, for the type and quantity of Shared Support Services it requires, and Hearst Power Distribution shall supply the Shared Support Services, provided it has the capacity to do so without detriment to its own business or operations.
- 3.2. The Town of Hearst will provide to Hearst Power Distribution the Shared Support Services set out in Schedule B attached hereto and forming part of this Agreement, and any additional services required by Hearst Power Distribution from time to time that can be justifiably and beneficially offered by the Town of Hearst. The request shall be within notice, reasonable in the circumstances, for the type and quantity of Shared Support Services it requires, and the Town of Hearst shall supply the Shared Support Services, provided it has the capacity to do so without detriment to its own business or operations.
- 3.3. The quality of the Shared Support Services provided by the Parties will be equivalent to the quality it could expect to receive from third party suppliers. Where no market exists for a Shared Support Service, the quality of such Shared Support Service will be equivalent to the quality provided in the Party's own business and operations.
- 3.4. The Shared Support Services required by the Parties shall be provided in accordance with this Article 3 and with the prices set out respectively in attached Schedule A and Schedule B and the terms, conditions and prices shall be compliant with the requirements of the Code.
- 3.5. Prices charged between the Parties shall be subject to HST.
- 3.6. For the year commencing on January 1<sup>st</sup>, 2021 the prices shall consist of the prices specified in Schedule A and in Schedule B (except for item 3 of Schedule B in which case the increase is separately established by existing third party contract provisions).

For the year commencing on January 1<sup>st</sup>, 2022 and subsequent years, the Contract price shall consist of the price in effect on the immediately preceding December 31<sup>st</sup>, plus an adjustment for inflation calculated as described below:

Statistics Canada Consumer Price Index, All Items (Ontario) ("CPI") shall be used to calculate the inflation adjustment referred to hereabove. The percentage difference between the CPI of November of one year as compared to the CPI of November of the next year shall be the inflation adjustment for the year. In 2022, the percentage difference between the CPI on November, 2021 compared to November, 2020 shall be the inflation adjustment for the next year. The inflation adjustment shall be added to the Annual Price on a cumulative basis.

- 3.7. Invoices will be rendered by each Party for the Shared Support Services as soon as practicable following month end, and will be paid within thirty (30) days of the date thereof. In the event this Agreement is terminated prior to yearend, the amounts payable will be pro-rated.
- 3.8. This Agreement shall be deemed to be an exclusive Inter-Corporate Services Agreement between the Town of Hearst and Hearst Power Distribution whom shall not have the right to respectively retain a third party to provide, any of the Shared Support Services unless consented to by the other Party.

#### **4. CONFIDENTIAL INFORMATION**

- 4.1. The Town of Hearst and Hearst Power Distribution mutually undertake and agree that they will not request from each other or disclose to each other or to any third party Confidential Information unless the party to whom the Confidential Information relates, consents, or unless disclosure is permitted under the Code, the corporate by-laws of the Town of Hearst and/or Hearst Power Distribution, the Shareholder Declaration of the Town of Hearst for Hearst Power Distribution or otherwise, is required by law.
- 4.2. It is understood and agreed that subject to any revisions to the Code, to the corporate by-laws of the Town of Hearst and/or Hearst Power Distribution, the Shareholder Declaration of the Town of Hearst for Hearst Power Distribution, all Confidential Information will be protected from access by the Parties and from access by third parties, and access to the Town of Hearst's and Hearst Power Distribution's information services shall include appropriate data management and data access protocols and the Parties further agree to comply with all such protocols.
- 4.3. The Parties further undertake and agree that should a breach of any access protocol occur, the Parties will take immediate steps to remedy such breach.

#### **5. DISPUTE RESOLUTION**

Disputes between the Parties with respect to any provision of this Agreement which cannot be resolved by the Parties, shall be referred to arbitration in compliance with the provisions of the Arbitrations Act, R.S.O. 1990, as amended, and in particular subject to the following requirements:

- 5.1. There shall be a single arbitrator selected by mutual agreement of both Parties.
- 5.2. The decision of the arbitrator as the case may be, shall be final.
- 5.3. The costs of the arbitration shall be borne equally between the Parties.
- 5.4. Notwithstanding the existence of any such disputes, the Town of Hearst and Hearst Power Distribution shall continue to carry out their respective obligations under this Agreement in a timely fashion, and such carrying out of obligations shall be without prejudice to their respective rights under this Agreement.

#### **6. INSURANCE AND APPORTIONMENT OF RISK**

- 6.1. Each Party will maintain policies of insurance for public liability and property as will protect the Parties from claims for damages for personal injury, including death, from claims for loss and from claims for property damage which may arise from the Parties' business or operations, including any act or omission of the Parties' agents, representatives or employees, and such coverage shall include all costs, charges and expenses reasonably incurred with respect to any injury or damage.
- 6.2. Each Party shall bear all risks associated with the business and operations of such Party.

#### **7. INDEMNIFICATION**

Each Party agrees to indemnify and save harmless the other Party against all losses, damages, claims, actions, demands, suits, costs and interest arising directly or indirectly from anything done by the Party in connection with this Agreement, whether in the performance of, outside of, or contrary to this Agreement.

**8. WORKPLACE SAFETY AND INSURANCE BOARD COVERAGE**

The Town of Hearst and Hearst Power Distribution shall procure and carry Workplace Safety and Insurance Board coverage for their employees while providing Shared Support Services to the other Party, the cost of which shall be part of the prices established for services rendered.

**9. ENTIRE AGREEMENT**

This Agreement is the entire agreement among the Parties regarding the subject of this Agreement and it can be amended or supplemented only by a document executed in writing by authority of the Municipal Council of the Corporation of the Town of Hearst.

**10. SEVERABILITY**

If any term of this Agreement is found to be invalid, illegal or unenforceable by a court or tribunal having the jurisdiction to do so, that term is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that finding or by the severance of that term.

**11. CONTEXT**

In this Agreement, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.

**12. GOVERNING LAW**

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

**13. ASSIGNMENT**

A Party may only assign this Agreement with the written consent of the other Party, such consent not to be unreasonably withheld.

**14. SUCCESSORS AND ASSIGNS**

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

**15. NOTICE**

Any notice required or permitted to be given hereunder or any tender or delivery, facsimile or e-mail to the following individuals or to such other individual a Party may stipulate by notice to the other Parties:

for Hearst Power Distribution Company Limited:

Name:	Jessy Richard
Title:	General Manager
Telephone:	705-372-2815
Fax:	705-362-5902
e-mail:	<a href="mailto:jrichard@hearstpower.com">jrichard@hearstpower.com</a>

for The Corporation of the Town of Hearst:

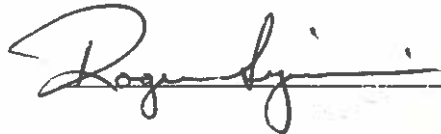
Name: Yves Morrissette  
 Title: Chief Administrative Officer  
 Telephone: 705-372-2817  
 Fax: 705-362-5902  
 e-mail: [ymorrissette@hearst.ca](mailto:ymorrissette@hearst.ca)


IN WITNESS WHEREOF the Corporate parties have affixed their Corporate Seals under the hands of their officers authorized in that behalf, and the individual parties have set their hands and seals.

SIGNED AT THE TOWN OF HEARST

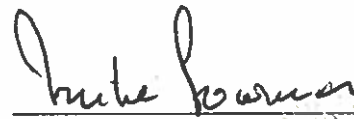
THIS 10<sup>th</sup> DAY OF FEBRUARY, 2021.

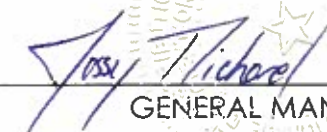
**THE CORPORATION OF THE TOWN OF HEARST**

  
 \_\_\_\_\_  
 MAYOR

  
 \_\_\_\_\_  
 CLERK

**HEARST POWER DISTRIBUTION COMPANY LIMITED**

  
 \_\_\_\_\_  
 PRESIDENT

  
 \_\_\_\_\_  
 GENERAL MANAGER

## Intercorporate Services Agreement

between  
the Corporation of the Town of Hearst  
and  
Hearst Power Distribution Co. Ltd.

### Shared Support Services provided by Hearst Power Distribution

Billing services for charges and levies in relation to potable water and wastewater consumption and ancillary services for all properties within the territorial limits of the Corporation of the Town of Hearst that are connected to the potable water and wastewater distribution system, which shall include all associated clerical, labour and administrative services for meter reading, invoicing, payment data entry, collection of arrears and clientele relations as well as a 24-hour answering service shall be provided by Hearst Power Distribution in accordance with the following:

- An annual lump sum all-inclusive price of thirty-four thousand two hundred ninety-eight dollars and twenty-one (\$34,298.21) payable in equal monthly instalments.
- The acquisition of new equipment, software and hardware technology directly linked and required for the sole purpose of client meter reading and billing of potable water and wastewater consumption and ancillary services shall be the responsibility of the Corporation of the Town of Hearst. Acquisition of new billing equipment, software and hardware technology, billing supplies and material that is used for both hydro and water meter reading and billing shall be split 59% to Hearst Power and 41% to the Town of Hearst. The percentage for each corporation is based on the following information:

Description	Units	Percentage (%)
Hydro meters	2,759	59%
Water meters	1,893	41%
Total meters	4,652	100%

- The value of the acquisition, repair, maintenance and supplies of the postage machine owned by Hearst Power Distribution is deemed to be commensurate with the value of the photocopies and faxes used by Hearst Power Distribution on the photocopier and fax machines owned by the Town of Hearst. The Town of Hearst shall reimburse Hearst Power for postage fees only, billed monthly per usage.

## Intercorporate Services Agreement

between  
**The Corporation of the Town of Hearst**  
and  
**Hearst Power Distribution Co. Ltd.**

### Shared Support Services provided by Town of Hearst

1. Client reception, central communication and cashier services, payroll for Hearst Power Distribution employees including bi-weekly pay and associated cost reports, enrolment and administration of fringe benefits including OMERS pension, remittances of deductions at source and annual T4 employee slips with employer reports:
  - annual lump sum all-inclusive price of forty-two thousand eighty-seven dollars and twenty-nine (\$ 42,087.29) payable in equal monthly instalments;
2. Offices (3) for the General Manager, Administrative Assistant and Billing Clerk as well as access to common spaces comprising reception area, office equipment room, storage rooms and vaults as designated, coffee rooms, meeting rooms, washrooms, hallways and employee and client parking spaces as well as photocopies and faxes on the equipment owned by the Town of Hearst.
  - annual lump sum price of fourteen thousand eight hundred three dollars and seventy-three (\$14,803.73) including electrical, heating and water utilities, janitorial and insurance, payable in equal monthly instalments.
3. Twenty-four hour/seven days (24/7) communication services by means of telephone and radio
  - annual lump sum price of twenty-three thousand nine hundred eighty-three dollars and fifty-six (\$23,983.56) plus as applicable, an annual CPI increase at anniversary date per existing third party contract provisions, payable in equal monthly instalments.
4. Direct cost for telephone lines and associated charges.
5. Direct cost for insurance of buildings and vehicles.
6. The manpower, equipment and machinery charged at the Town hourly rate for its own internal cost accounting purposes, for the following services:
  - clearing and removal of snow at the entrance and yard of the Hearst Power Garage;
  - grounds keeping involving lawn maintenance and granular upkeep of entrance and yard;
  - undertaking works to prepare land surface to provide vehicle access for Hearst Power crew to hydro pole sites which essentially represents:
    - during winter season conditions, snow clearing, ground freezing and temporary culvert installation;
    - during spring, summer and fall season conditions, grading of ground and surfacing with granular material and temporary culvert installation;
  - uncovering underground electrical wires by extraction of earth with sewer flusher/suction-pump truck;
  - on occasion, perform repair and maintenance on pick-ups and trucks.