

Form 1
Business
Corporations
Act

Formule
numéro 1
Loi sur les
sociétés par
actions

ARTICLES OF INCORPORATION
STATUTS CONSTITUTIFS

1. The name of the corporation is: *Dénomination sociale de la société:*

[illegible]

2. The address of the registered office is: *Adresse du siège social:*

4548 Ontario Street, Unit #2

(Street & Number or R.R. Number & if Multi-Office Building give Room No.)
(Rue et numéro, ou numéro de la R.R. et, s'il s'agit d'un édifice à bureaux, numéro du bureau)

Beamsville, Ontario

L 0 R 1 B 5

(Name of Municipality or Post Office)
(Nom de la municipalité ou du bureau de poste)

(Postal Code/Code postal)

3. Number (or minimum and maximum number) of directors is: *Nombre (ou nombres minimal et maximal) d'administrateurs*

minimum of three (3)
maximum of twelve (12)

4. The first director(s) is/are:

Premier(s) administrateur(s)

First name, initials and surname
Prénom, initiales et nom de famille

Address for service, giving Street & No or R R No ,
Municipality and Postal Code
*Domicile élu, y compris la rue et le numéro ou le numéro
de la R.R., le nom de la municipalité et le code postal*

Resident
Canadian
State
Yes or No
*Résident
Canadien
Oui/Non*

Ralph Beamer

341 Welland Road, R.R. #5
Fenwick, Ontario L0S 1C0

Yes

Ray A. Konkle

3165 21st Street, R.R. #1
Jordan, Ontario L0R 1S0

Yes

Lorne Nelson

199 Margaret Street
Smithville, Ontario L0R 2A0

Yes

John Hildebrand

60 Niagara Street
Niagara on the Lake, Ontario L0S 1J0

Yes

Bruce McFarlane

32 Ellis Street, Box 68
Smithville, Ontario L0R 2A0

Yes

4. continued

First name, initials and surname <i>Prénom, initiales et nom de famille</i>	Address for service, giving Street & No. or R.R. No., Municipality and Postal Code <i>Domicile élu, y compris la rue et le numéro ou le numéro de la R.R., le nom de la municipalité et le code postal</i>	Resident Canadian State Yes or No
Brian Walker	57 Canboro Road, Box 55 Fonthill, Ontario L0S 1E0	Yes

5. Restrictions, if any, on business the corporation may carry on or on powers the corporation may exercise.
- Limites, s'il y a lieu, imposées aux activités commerciales ou aux pouvoirs de la société.*

There are no restrictions on the business the Corporation may carry on or on the powers the Corporation may exercise.

6. The classes and any maximum number of shares that the corporation is authorized to issue:
- Catégories et nombre maximal, s'il y a lieu, d'actions que la société est autorisée à émettre:*

The Corporation is authorized to issue an unlimited number of Common shares.

7. Rights, privileges, restrictions and conditions (if any) attaching to each class of shares and directors authority with respect to any class of shares which may be issued in series:

Droits, privilèges, restrictions et conditions, s'il y a lieu, rattachés à chaque catégorie d'actions et pouvoirs des administrateurs relatifs à chaque catégorie d'actions qui peut être émise en série:

The holders of the Common Shares shall be entitled:

- (a) to receive notice of, attend and vote at all meetings of the shareholders of the Corporation and each such share shall confer the right to one (1) vote at all meetings of the shareholders of the Corporation.
- (b) to receive dividends payable at such rate and at such time as the Board of Directors may by resolution determine.
- (c) to receive the remaining property of the Corporation in the event of the liquidation, dissolution, or winding up of the Corporation or other distribution of its assets among the shareholders by way of repayment of capital, whether voluntary or involuntary.

8. The issue, transfer or ownership of shares is / ~~is not~~ *L'émission, le transfert ou la propriété d'actions est / n'est*
restricted and the restrictions (if any) are as follows: ~~pas~~ *restreint. Les restrictions, s'il y a lieu, sont les*
suivantes:

The transfer of shares of the Corporation shall be restricted in that no share or shares shall be transferred to any person at any time without either:

- (a) the consent of the directors of the Corporation expressed by a resolution passed at a meeting of the board of directors or by an instrument or instruments in writing signed by a majority of the directors; or
- (b) the consent of the shareholders of the Corporation expressed by a resolution passed by the shareholders or by an instrument or instruments in writing signed by the holders of the shares of the Corporation representing a majority of the votes attributable to all the issued and outstanding shares of the Corporation.

9. Other provisions, (if any):

Autres dispositions, s'il y a lieu:

1. The number of shareholders of the Corporation, exclusive of persons who are in the employment of the Corporation and exclusive of persons who, having been formerly in the employment of the Corporation, were, while in that employment and have continued after the termination of that employment to be shareholders of the Corporation, is limited to not more than fifty (50), two or more persons who are joint registered owners of one or more shares being counted as one shareholder.
2. Any invitation to the public to subscribe for securities of the Corporation is prohibited.
3. This Corporation is incorporated pursuant to section 142 (1) of the Electricity Act, 1998, (Ontario)

<div>10. The names and addresses of the incorporators are <i>Nom et adresse des fondateurs</i></div> <div>First name, initials and last name or corporate name <i>Prénom, initiale et nom de famille ou dénomination sociale</i></div>	<div>Full address for service or address of registered office or of principal place of business giving street & No. or R.R. No., municipality and postal code <i>Domicile élu, adresse du siège social ou adresse de l'établissement principal, y compris la rue et le numéro, le numéro de la R.R., le nom de la municipalité et le code postal</i></div>
Ralph Beamer	341 Welland Road, R.R. #5 Fenwick, Ontario L0S 1C0
Ray A. Konkle	3165 21st Street, R.R. #1 Jordan, Ontario L0R 1S0
Lorne Nelson	199 Margaret Street Smithville, Ontario L0R 2A0
John Hildebrand	60 Niagara Street Niagara on the Lake, Ontario L0S 1J0
Bruce McFarlane	32 Ellis Street, Box 68 Smithville, Ontario L0R 2A0
Brian Walker	57 Canboro Road, Box 55 Fonthill, Ontario L0S 1E0

These articles are signed in duplicate.

Les présents statuts sont signés en double exemplaire.

Signatures of incorporators/*Signatures des fondateurs*

Ralph Beamer

Ray A. Konkle

Lorne Nelson

John Hildebrand

Bruce McFarlane

Brian Walker

CONSENT TO ACT AS A FIRST DIRECTOR
ACCEPTATION DU PREMIER ADMINISTRATEUR

I, /je soussigné(e) RALPH BEAMER
(First name, initials and surname)
(Prénom, initiales et nom de famille)

address for service
Domicile élu 341 WELLAND ROAD, R.R. #5 FENWICK, ONTARIO L0S 1C0
(Street & No. or R.R. No., Municipality & Postal Code)
(Rue et numéro, numéro de la R.R., nom de la municipalité et code postal)

hereby consent to act as a first director of
accepte par la présente de devenir premier
administrateur de

PENINSULA WEST POWER INC.
(Name of Corporation)
(Dénomination sociale de la société)

(Signature of the Consenting Person)
(Signature de l'acceptant)

CONSENT TO ACT AS A FIRST DIRECTOR
ACCEPTATION DU PREMIER ADMINISTRATEUR

I,/je soussigné(e) JOHN HILDEBRAND
(First name, initials and surname)
(Prénom, initiales et nom de famille)

address for service
Domicile élu 60 NIAGARA STREET NIAGARA ON THE LAKE, ONTARIO L0S 1J0
(Street & No. or R.R. No., Municipality & Postal Code)
(Rue et numéro, numéro de la R.R., nom de la municipalité et code postal)

hereby consent to act as a first director of accepte par la présente de devenir premier
administrateur de

PENINSULA WEST POWER INC.
(Name of Corporation)
(Dénomination sociale de la société)

(Signature of the Consenting Person)
(Signature de l'acceptant)

CONSENT TO ACT AS A FIRST DIRECTOR
ACCEPTATION DU PREMIER ADMINISTRATEUR

I,/je soussigné(e) RAY A. KONKLE
(First name, initials and surname)
(Prénom, initiales et nom de famille)

address for service
Domicile élu 3165 21ST STREET, R.R. #1 JORDAN, ONTARIO L0R 1S0
(Street & No. or R.R. No., Municipality & Postal Code)
(Rue et numéro, numéro de la R.R., nom de la municipalité et code postal)

hereby consent to act as a first director of
accepte par la présente de devenir premier
administrateur de

PENINSULA WEST POWER INC.
(Name of Corporation)
(Dénomination sociale de la société)

(Signature of the Consenting Person)
(Signature de l'acceptant)

CONSENT TO ACT AS A FIRST DIRECTOR
ACCEPTATION DU PREMIER ADMINISTRATEUR

I, /je soussigné(e) BRUCE MCFARLANE
(First name, initials and surname)
(Prénom, initiales et nom de famille)

address for service
Domicile élu 32 ELLIS STREET, BOX 68 SMITHVILLE, ONTARIO L0R 2A0
(Street & No. or R.R. No., Municipality & Postal Code)
(Rue et numéro, numéro de la R.R., nom de la municipalité et code postal)

hereby consent to act as a first director of accepte par la présente de devenir premier
administrateur de

PENINSULA WEST POWER INC.
(Name of Corporation)
(Dénomination sociale de la société)

(Signature of the Consenting Person)
(Signature de l'acceptant)

CONSENT TO ACT AS A FIRST DIRECTOR
ACCEPTATION DU PREMIER ADMINISTRATEUR

I, /je soussigné(e) LORNE NELSON
(First name, initials and surname)
(Prénom, initiales et nom de famille)

address for service
Domicile élu 199 MARGARET STREET SMITHVILLE, ONTARIO L0R 2A0
(Street & No. or R.R. No., Municipality & Postal Code)
(Rue et numéro, numéro de la R.R., nom de la municipalité et code postal)

hereby consent to act as a first director of *accepte par la présente de devenir premier*
administrateur de

PENINSULA WEST POWER INC.
(Name of Corporation)
(Dénomination sociale de la société)

(Signature of the Consenting Person)
(Signature de l'acceptant)

CONSENT TO ACT AS A FIRST DIRECTOR
ACCEPTATION DU PREMIER ADMINISTRATEUR

I, /je soussigné(e) BRIAN WALKER
(First name, initials and surname)
(Prénom, initiales et nom de famille)

address for service
Domicile élu 57 CANBORO ROAD, BOX 55 FONTHILL, ONTARIO L0S 1E0
(Street & No. or R.R. No., Municipality & Postal Code)
(Rue et numéro, numéro de la R.R., nom de la municipalité et code postal)

hereby consent to act as a first director of accepte par la présente de devenir premier
administrateur de

PENINSULA WEST POWER INC.
(Name of Corporation)
(Dénomination sociale de la société)

(Signature of the Consenting Person)
(Signature de l'acceptant)

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Document prepared
using Fast Company, by
Do Process Software Ltd.,
Toronto, Ontario
(416) 322-6111

ARTICLES OF INCORPORATION
STATUTS CONSTITUTIFS

1. The name of the corporation is: *Dénomination sociale de la société:*

P	E	N	I	N	S	U	L	A	W	E	S	T	U	T	I	L	I	T	I	E	S	L	I	M	I	T
E	D																									

2. The address of the registered office is: *Adresse du siège social:*

4548 Ontario Street, Unit #2

(Street & Number or R.R. Number & if Multi-Office Building give Room No.)
(Rue et numéro, ou numéro de la R.R. et, s'il s'agit d'un édifice à bureaux, numéro du bureau)

Beamsville, Ontario

(Name of Municipality or Post Office)
(Nom de la municipalité ou du bureau de poste)

L 0 R 1 B 5

(Postal Code/Code postal)

3. Number (or minimum and maximum number) of directors is: *Nombre (ou nombres minimal et maximal) d'administrateurs:*

minimum of three (3)
maximum of twelve (12)

4. The first director(s) is/are:

Premier(s) administrateur(s):

First name, initials and surname <i>Prénom, initiales et nom de famille</i>	Address for service, giving Street & No. or R.R. No., Municipality and Postal Code <i>Domicile élu, y compris la rue et le numéro ou le numéro de la R.R., le nom de la municipalité et le code postal</i>	Resident Canadian State Yes or No <i>Résident Canadien Oui/Non</i>
John Hildebrand	60 Niagara Street Niagara on the Lake, Ontario L0S 1J0	Yes
Bruce McFarlane	32 Ellis Street, Box 68 Smithville, Ontario L0R 2A0	Yes
Brian Walker	57 Canboro Road, Box 55 Fonthill, Ontario L0S 1E0	Yes

5. Restrictions, if any, on business the corporation may carry on or on powers the corporation may exercise. *Limites, s'il y a lieu, imposées aux activités commerciales ou aux pouvoirs de la société.*

There are no restrictions on the business the Corporation may carry on or on the powers the Corporation may exercise.

6. The classes and any maximum number of shares that the corporation is authorized to issue: *Catégories et nombre maximal, s'il y a lieu, d'actions que la société est autorisée à émettre:*

The Corporation is authorized to issue an unlimited number of Common shares.

7. Rights, privileges, restrictions and conditions (if any) attaching to each class of shares and directors authority with respect to any class of shares which may be issued in series:

Droits, privilèges, restrictions et conditions, s'il y a lieu, rattachés à chaque catégorie d'actions et pouvoirs des administrateurs relatifs à chaque catégorie d'actions qui peut être émise en série:

The holders of the Common Shares shall be entitled:

- (a) to receive notice of, attend and vote at all meetings of the shareholders of the Corporation and each such share shall confer the right to one (1) vote at all meetings of the shareholders of the Corporation.
- (b) to receive dividends payable at such rate and at such time as the Board of Directors may by resolution determine.
- (c) to receive the remaining property of the Corporation in the event of the liquidation, dissolution, or winding up of the Corporation or other distribution of its assets among the shareholders by way of repayment of capital, whether voluntary or involuntary.

8. The issue, transfer or ownership of shares is / ~~is not~~ *L'émission, le transfert ou la propriété d'actions est / n'est*
restricted and the restrictions (if any) are as follows: *pas restreint. Les restrictions, s'il y a lieu, sont les*
suivantes:

The transfer of shares of the Corporation shall be restricted in that no share or shares shall be transferred to any person at any time without either:

- (a) the consent of the directors of the Corporation expressed by a resolution passed at a meeting of the board of directors or by an instrument or instruments in writing signed by a majority of the directors; or
- (b) the consent of the shareholders of the Corporation expressed by a resolution passed by the shareholders or by an instrument or instruments in writing signed by the holders of the shares of the Corporation representing a majority of the votes attributable to all the issued and outstanding shares of the Corporation.

9. Other provisions, (if any):

Autres dispositions, s'il y a lieu:

1. The number of shareholders of the Corporation, exclusive of persons who are in the employment of the Corporation and exclusive of persons who, having been formerly in the employment of the Corporation, were, while in that employment and have continued after the termination of that employment to be shareholders of the Corporation, is limited to not more than fifty (50), two or more persons who are joint registered owners of one or more shares being counted as one shareholder.
2. Any invitation to the public to subscribe for securities of the Corporation is prohibited.
3. This Corporation is incorporated pursuant to section 142 (1) of the Electricity Act, 1998, (Ontario)

<div>10. The names and addresses of the incorporators are</div> <div><i>Nom et adresse des fondateurs</i></div> <div>First name, initials and last name or corporate name</div> <div><i>Prénom, initiale et nom de famille ou dénomination sociale</i></div>	<div>Full address for service or address of registered office or of principal place of business giving street & No. or R.R. No., municipality and postal code</div> <div><i>Domicile élu, adresse du siège social ou adresse de l'établissement principal, y compris la rue et le numéro, le numéro de la R.R., le nom de la municipalité et le code postal</i></div>
<div>John Hildebrand</div> <div>Bruce McFarlane</div> <div>Brian Walker</div>	<div>60 Niagara Street</div> <div>Niagara on the Lake, Ontario L0S 1J0</div> <div>32 Ellis Street, Box 68</div> <div>Smithville, Ontario L0R 2A0</div> <div>57 Canboro Road, Box 55</div> <div>Fonthill, Ontario L0S 1E0</div>

These articles are signed in duplicate.

Les présents statuts sont signés en double exemplaire.

Signatures of incorporators/*Signatures des fondateurs*

John Hildebrand

Bruce McFarlane

Brian Walker

I, /je soussigné(e) JOHN HILDEBRAND
(First name, initials and surname)
(Prénom, initiales et nom de famille)

hereby consent to act as a first director of *accepte par la présente de devenir premier*
administrateur de

(Signature of the Consenting Person)
(Signature de l'acceptant)

ARTICLES OF INCORPORATION
STATUTS CONSTITUTIFS

Form 1
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Act

Formule
numéro 1
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P	E	N	I	N	S	U	L	A	W	E	S	T	S	E	R	V	I	C	E	S	L	T	D	.		

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(Rue et numéro, ou numéro de la R.R. et, s'il s'agit d'un édifice à bureaux, numéro du bureau)

Beamsville, Ontario

(Name of Municipality or Post Office)
(Nom de la municipalité ou du bureau de poste)

L0R1B5

(Postal Code/Code postal)

3. Number (or minimum and maximum number) of directors is: *Nombre (ou nombres minimal et maximal) d'administrateurs:*

minimum of one (1)
maximum of twelve (12)

4. The first director(s) is/are: *Premier(s) administrateur(s):*

First name, initials and surname <i>Prénom, initiales et nom de famille</i>	Address for service, giving Street & No. or R.R. No., Municipality and Postal Code <i>Domicile élu, y compris la rue et le numéro ou le numéro de la R.R., le nom de la municipalité et le code postal</i>	Resident Canadian State Yes or No <i>Résident Canadien Oui/Non</i>
John A. Alton	3840 Brookside Drive Vineland, Ontario L0R 2C0	Yes

5. Restrictions, if any, on business the corporation may carry on or on powers the corporation may exercise.
- Limites, s'il y a lieu, imposées aux activités commerciales ou aux pouvoirs de la société.*

There are no restrictions on the business the Corporation may carry on or on the powers the Corporation may exercise.

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The holders of the Common Shares shall be entitled:

- (a) to receive notice of, attend and vote at all meetings of the shareholders of the Corporation and each such share shall confer the right to one (1) vote at all meetings of the shareholders of the Corporation.
- (b) to receive dividends payable at such rate and at such time as the Board of Directors may by resolution determine.
- (c) to receive the remaining property of the Corporation in the event of the liquidation, dissolution, or winding up of the Corporation or other distribution of its assets among the shareholders by way of repayment of capital, whether voluntary or involuntary.

8. The issue, transfer or ownership of shares is / ~~is not~~ *L'émission, le transfert ou la propriété d'actions est / n'est pas restreint. Les restrictions, s'il y a lieu, sont les suivantes:* restricted and the restrictions (if any) are as follows:

The transfer of shares of the Corporation shall be restricted in that no share or shares shall be transferred to any person at any time without either:

- (a) the consent of the directors of the Corporation expressed by a resolution passed at a meeting of the board of directors or by an instrument or instruments in writing signed by a majority of the directors; or
- (b) the consent of the shareholders of the Corporation expressed by a resolution passed by the shareholders or by an instrument or instruments in writing signed by the holders of the shares of the Corporation representing a majority of the votes attributable to all the issued and outstanding shares of the Corporation.

9. Other provisions, (if any):

Autres dispositions, s'il y a lieu:

1. The number of shareholders of the Corporation, exclusive of persons who are in the employment of the Corporation and exclusive of persons who, having been formerly in the employment of the Corporation, were, while in that employment and have continued after the termination of that employment to be shareholders of the Corporation, is limited to not more than fifty (50), two or more persons who are joint registered owners of one or more shares being counted as one shareholder.
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<div>10. The names and addresses of the incorporators are <i>Nom et adresse des fondateurs</i> First name, initials and last name or corporate name <i>Prénom, initiale et nom de famille ou dénomination sociale</i></div>	<div>Full address for service or address of registered office or of principal place of business giving street & No. or R.R. No., municipality and postal code <i>Domicile élu, adresse du siège social ou adresse de l'établissement principal, y compris la rue et le numéro, le numéro de la R.R., le nom de la municipalité et le code postal</i></div>
<div>John A. Alton</div>	<div>3840 Brookside Drive Vineland, Ontario L0R 2C0</div>

These articles are signed in duplicate.

Les présents statuts sont signés en double exemplaire.

Signatures of incorporators/*Signatures des fondateurs*

John A. Alton

CONSENT TO ACT AS A FIRST DIRECTOR
ACCEPTATION DU PREMIER ADMINISTRATEUR

I,/je soussigné(e) JOHN A. ALTON
(First name, initials and surname)
(Prénom, initiales et nom de famille)

address for service
Domicile élu 3840 BROOKSIDE DRIVE VINELAND, ONTARIO L0R 2C0
(Street & No. or R.R. No., Municipality & Postal Code)
(Rue et numéro, numéro de la R.R., nom de la municipalité et code postal)

hereby consent to act as a first director of accepte par la présente de devenir premier
administrateur de

PENINSULA WEST SERVICES LTD.
(Name of Corporation)
(Dénomination sociale de la société)

(Signature of the Consenting Person)
(Signature de l'acceptant)

<u>NAME OF SHAREHOLDER</u>	<u>NUMBER OF SHARES</u>	<u>PERCENTAGE TOTAL</u>
Lincoln	59	59 %
Pelham	17	17 %
West Lincoln	24	24 %

4. Pursuant to the Electricity Act, each of the Shareholders shall transfer to the Corporations, by applicable transfer by-laws, the assets, liabilities, rights, obligations and employees of the Predecessor Utilities; and
5. The parties wish to enter into this Agreement to provide for the conduct of certain affairs of HoldCo, to provide for certain restrictions on the transfer and ownership of Shares and to govern the mutual rights and obligations of the Shareholders with respect to HoldCo and each other Shareholder;

NOW THEREFORE in consideration of the premises, the mutual promises herein contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) each of the parties agrees with each other party as follows:

ARTICLE I

INTERPRETATION

1.1 Definitions

In this Agreement the following terms shall have the following meanings unless the subject matter or context otherwise requires:

"Act" means the *Business Corporations Act* (Ontario);

"Agreement" means this Agreement, all schedules attached hereto and any agreement or schedule supplementing or amending this Agreement. All uses of the words "hereto", "herein", "hereof", "hereby" and "hereunder" and similar expressions refer to this Agreement and not to any particular section or portion of it. References to an Article, Section, Subsection or Schedule refer to the applicable article, section, subsection or schedule of this Agreement unless otherwise specified;

"Amalgamated Shareholder" has the meaning set out in Subsection 10.7(a);

"Arbitration Act" means the *Arbitration Act, S.O., 1991*;

"Arbitrator" has the meaning set out in Subsection 10.3(a);

"Arm's Length" has the meaning attributed thereto in the *Income Tax Act* (Canada) provided that for the purposes of Section 5.3, each Shareholder shall be deemed to be acting at Arm's Length with each other Shareholder and HoldCo.

"Auditors" means the firm of chartered accountants appointed as auditor of the Corporations from time to time;

"Board" means the Board of Directors of HoldCo;

"Board Committees" means committees created by the Board from time to time for the purpose of overseeing specific tasks and reporting to the Board and includes the committees referred to in Section 3.3;

"Business" means the business of the Corporations as described in Section 2.1 or as may otherwise be conducted by the Corporations from time to time;

"Business Day" means any day other than a Saturday, Sunday, or statutory holiday in Ontario;

"Chair" means the director elected by the Board to serve as its chairperson from time to time;

"Closing Date" means the date on which the purchase and sale of Shares is to be completed;

"Confidential Information" means any and all information and data relating in any manner to the Business and any activities, plans, ideas, products, services, policies or intentions (including without limitation, information of an operational, business, marketing, financial or economic nature) whether or not proprietary in nature, that is of value to the Corporations and is held by the Corporations as a trade secret and is not generally known to competitors of the Corporations or to the public;

"Corporations" means collectively HoldCo and any Subsidiary;

"Disputing Shareholder" has the meaning set out in Subsection 10.3(c);

"Electricity Act" means the *Electricity Act*, 1998 (Ontario);

"Encumbrance" means a mortgage, charge, pledge, hypothecation, lien (statutory or otherwise), security interest, adverse claim, assignment as security or reservation of title of any kind;

"Fiscal Year" means a 12-month period ending on December 31 in each year;

"Governmental Authority" means any government or political subdivision (including without limitation, any municipality or federal or provincial ministry) or agency, authority, commission, department or instrumentality of any government or political subdivision, or any court or tribunal, and specifically includes the Ontario Energy Board and the IMO;

"Hold Period" has the meaning set out in Section 5.1;

"IMO" means the Independent Electricity Market Operator established pursuant to the Electricity Act;

"Initial Shareholder" means, at the date of this Agreement, each of Lincoln, Pelham and West Lincoln;

"Laws" means any law, including common law, equitable principle, statute, ordinance, regulation, rule, order, permit, decision, declaration, notice, demand, injunction, writ, policy, decree or award of any Governmental Authority;

"Notice Period" has the meaning set out in Subsection 5.3(b);

"Offer" has the meaning set out in Subsection 5.3(a);

"Offered Shares" has the meaning set out in Subsection 5.3(a);

"Other Holders" has the meaning set out in Section 5.3;

"Person" means an individual, firm, partnership, unincorporated association, corporation, bank, trust or other legal entity of any kind whatsoever;

"Predecessor Utility" means each of Lincoln Hydro-Electric Commission, Pelham Hydro-Electric Commission and West Lincoln Hydro-Electric Commission;

"Prospective Purchaser" has the meaning set out in Subsection 5.3(a);

"Purchase Notice" has the meaning set out in Subsection 5.3(c);

"Retiring Director" has the meaning set out in Subsection 3.2(g);

"Reserve" has the meaning set out in Subsection 10.7(b);

"Selling Notice" has the meaning set out in Subsection 5.3(a);

"Selling Shareholder" has the meaning set out in Section 5.3;

"Shareholder" means any Person that is a registered holder of Shares;

"Shareholder Representative" has the meaning set out in Section 3.7;

"Shares" means common shares without par value in the capital of HoldCo; ,

"Subsidiary" means any subsidiary (as this term is defined in the Act) of HoldCo including, without limitation, WiresCo and CompetitiveCo; and

"Third Party" means any Person with whom a Shareholder deals at Arm's Length.

1.2 Control

For the purposes of this Agreement, a body corporate shall be deemed to be "controlled" by another Person or by two or more Persons if such Person or Persons (either individually or collectively and whether or not they act together jointly or in concert) directly or indirectly own, legally and beneficially, and exercise the full voting rights over, shares of such body corporate which:

- (a) have attached to them voting rights, exercisable in all circumstances, which represent more than 50% of the votes attaching to all outstanding securities of such body corporate;
- (b) have sufficient votes to elect a majority of the board of directors of such body corporate; and
- (c) carry a right to receive, on a winding up or dissolution, more than 50% of the remaining property of such body corporate after payment of all debts and liabilities of the body corporate.

1.3 Headings

The division of this Agreement into Articles, Sections and Subsections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The Article and Section headings in this Agreement are not intended to be full or precise descriptions of the text to which they refer and shall not be considered part of this Agreement.

1.4 Entire Agreement

The execution of this Agreement has not been induced by, nor do any of the parties rely upon or regard as material, any representations, warranties, conditions, other agreements or acknowledgements not expressly made in this Agreement and in the agreements and other documents to be delivered pursuant hereto.

1.5 Number and Gender

In this Agreement, words in the singular include the plural and vice-versa and words in one gender include all genders.

1.6 Accounting Principles

Where the Canadian Institute of Chartered Accountants includes a recommendation in its Handbook concerning the treatment of any accounting matter, such recommendation shall be regarded as the only generally accepted accounting principle applicable to the circumstances that it covers and references herein to "generally accepted accounting principles" shall be interpreted accordingly.

All accounting and financial terms used herein, unless specifically provided to the contrary, shall be interpreted and applied in accordance with generally accepted accounting principles in Canada.

1.7 Calculation of Time

In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. (Eastern Standard time) on the last day of the period. If, however, the last day of the period does not fall on a Business Day, the period shall terminate at 5:00 p.m. (Eastern Standard time) on the next Business Day.

1.8 Statutory References

A reference in this Agreement to a statute refers to that statute, and any regulations or rules issued thereunder, as amended, supplemented or replaced from time to time.

1.9 *Reclassification of Shares*

The provisions of this Agreement shall apply, with any necessary changes to (a) any shares or securities of any nature into which the Shares or any of them may be converted, exchanged, reclassified, redivided, redesignated, subdivided or consolidated; (b) any shares or securities of any nature that are received by a Shareholder as a stock dividend or distribution payable in shares, securities, warrants, rights or options of any nature of HoldCo; (c) any shares, securities, warrants, rights or options of any nature of HoldCo or any successor, continuing company or corporation of HoldCo that may be received by a Shareholder on a reorganization, amalgamation, arrangement, consolidation or merger, statutory or otherwise; and (d) any shares, securities, warrants, rights or options hereafter issued or allotted by HoldCo to a Shareholder, all of which shares, securities, warrants, rights or options shall be deemed to be Shares for all purposes of this Agreement.

1.10 *Interpretation*

If any conflict shall appear between the by-laws and the articles of HoldCo and the provisions of this Agreement, the provisions of this Agreement shall govern.

1.11 *Governing Law*

This Agreement shall be governed by and construed, interpreted and performed in accordance with the laws of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract.

1.12 *Currency*

All dollar amounts referred to in this Agreement and all payments to be made hereunder are in Canadian funds.

1.13 *Regulatory Matters*

In the event of a conflict between any approval or direction or other requirement of the Shareholders under this Agreement and any decision, order or policy of any Regulator, the decision, order or policy of the Regulator shall govern and the Corporations will at all times comply with any decision, order or policy of the Regulator whether or not an approval or direction has first been given in respect thereof by the Shareholder under this Agreement. For greater certainty, the Corporations will not seek any order from any regulator for any matter that would require the approval of the Shareholders under this agreement without first giving notice of its intentions to seek such an order to the Shareholders.

ARTICLE II

BUSINESS OF THE CORPORATIONS

2.1 *Business and Objective of the Corporations*

The Corporations may engage in the following business activities and such other business activities as may be permitted by Law and authorized by the Board from time to time:

- (a) transmitting or distributing electricity;
- (b) owning and/or operating an electricity generation facility;
- (c) retailing electricity;
- (d) distributing or retailing gas or any other energy product which is carried through pipes or wires to the user;

- (e) business activities that enhance or develop the ability of any of the Corporations to carry on any of the activities described in paragraphs (a), (b), (c), or (d) above;
- (f) business activities, the principal purpose of which is to use more effectively the assets of any of the Corporations, including providing meter installation and reading services, providing billing services and business activities in the telecommunications area;
- (g) renting, selling or maintaining equipment and appliances, including without limitation, hot water heaters;
- (h) providing services related to improving energy efficiency;
- (i) managing or operating, on behalf of a Shareholder, the provision of a public utility, as defined in Section 1 of the *Public Utilities Act*, or sewage services; and
- (j) all other activities as permitted by the Act as amended from time to time,

however, the overall objective of the Corporations is to conduct its businesses so as to minimize the impact of electricity rates on consumers while maintaining or increasing the value of the Corporations.

2.2 Corporations' Standard of Service

It is the intention of the Initial Shareholders that: (a) the Corporations shall provide service levels at least equivalent to the existing levels in the service areas of each of the Predecessor Utilities immediately prior to the transfer of their assets to the Corporations; (b) new standards of service are established by the Board after the date of this Agreement so that each service area will enjoy common standards and derive equal benefits, including but not limited to, the following matters:

- (a) distribution, energy services and tariffs;
- (b) maintenance standards and schedules;
- (c) emergency response capabilities;
- (d) distribution system capacity;
- (e) customer convenience and accessibility;
- (f) power reliability and quality; and
- (g) marketing programmes and services.

ARTICLE III

CORPORATE AFFAIRS OF HOLDCO

3.1 Assurances

The Shareholders shall cause such meetings of Shareholders to be held, votes to be cast, resolutions to be passed, by-laws to be made, confirmed and/or repealed, agreements and other documents and instruments to be executed and all other acts and things to be done, to ensure that at all times the provisions of this Article III are in effect, complied with or implemented.

3.2 The Board of Directors

- (a) **General.** Subject to the provisions of this Agreement, the business and affairs of the Corporation shall be managed by the Board of Directors (the "Board"), which shall at all times consist of six (6) directors. The Board shall consist of such individuals as the Shareholders may elect from time to time by Ordinary Resolution. Notwithstanding any provision in this Agreement and subject to the provisions of Section 3.2 (c), each of the initial Shareholders shall be entitled to appoint two (2) their own representatives as directors of the Corporation. Each of the Shareholders hereby

agrees to vote for the director appointees put forward by the other Shareholders. The Board shall annually elect from its members a Chair.

- (b) **Appointment of Board of Directors.** With respect to the appointment of Directors, the Parties agree as follows:

- (i) As long as Lincoln is a Shareholder, Lincoln shall be entitled to appoint two Directors to the Board;
- (ii) As long as Pelham is a Shareholder, Pelham shall be entitled to appoint two Directors to the Board; and
- (iii) As long as West Lincoln is a Shareholder, West Lincoln shall be entitled to appoint two Directors to the Board;

with the terms of the Directors being designated by their appointing Shareholder as one (1), two (2) or three (3) years, such that the Board will be a staggered Board.

- (c) **Appointment of Initial Directors.** The following individuals shall be appointed as the initial Directors of the Board:

- (i) Lincoln hereby nominates and appoints Mayor Ray Konkle and Chair John Hildebrand to be its two appointed representatives on the Board unless and until replaced by notice in writing given to Mayor Ray Konkle and Chair John Hildebrand by Lincoln;
- (ii) Pelham hereby nominates and appoints Mayor Ralph Beamer and Chair Brian Walker to be its two appointed representatives on the Board unless and until replaced by notice in writing given to Mayor Ralph Beamer and Chair Brian Walker by Pelham; and
- (iii) West Lincoln hereby nominates and appoints Mayor Lorne Nelson and Chair Bruce McFarlane to be its two appointed representatives on the Board unless and until replaced by notice in writing given to Mayor Lorne Nelson and Chair Bruce McFarlane by West Lincoln.

- (d) **Size of the Board.** The business and affairs of HoldCo shall be managed or supervised by the Board which shall consist of three (3) to twelve (12) directors or such other number of directors as the Shareholders may determine from time to time by special resolution in accordance with the Act. Until changed by the Shareholders, the Board shall be initially set at six (6) directors.

- (e) **Increasing the Board.** In the event that the Shareholders desire to increase the number of directors serving on the Board, the Shareholders shall elect such directors ("Additional Directors") for an initial term, determined by the Shareholders at that time, in order to maintain the equal representation of the three Initial Shareholders and maintain the staggered nature of the Board.

- (f) **Qualifications of Board.** In addition to the requirements of the Act, the qualifications of candidates for the Board shall, where possible, include the following:

- (i) commercial experience, sensitivity and acumen;
- (ii) time availability;
- (iii) corporate finance;
- (iv) corporate governance;
- (v) market development;
- (vi) industry knowledge, including principal risks and potential returns;
- (vii) independent, objective and sound of judgment;
- (viii) personal integrity and honesty;

- (ix) knowledge of public policy and government regulation issues relating to the Corporations and the industry;
 - (x) knowledge and experience concerning environmental matters, labour relations and occupational health and safety issues; and
 - (xi) knowledge of the local communities.
- (g) **Vacancy.** If a director of the Board ceases to be a director for any reason (a "Retiring Director"), the Shareholders shall fill the vacancy thereby created as soon as reasonably possible in accordance with this Subsection 3.2.
- (h) **Quorum.** A quorum for a meeting of the Board shall consist of both (i) a majority of the members of the Board and (ii) at least one nominee of each of the three shareholders. A meeting shall be adjourned for lack of a quorum and a notice of the adjourned meeting shall be sent to all directors rescheduling the meeting to a date at least 7 days following the adjourned meeting.
- (i) **Meetings of the Board.** Meetings of the Board shall be held at least once in every calendar quarter or at the request of the Chair or of a majority of the members of the Board. All meetings of the Board shall be held in Ontario, or by such telephone or electronic communication devices as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously. At least 5 days' written notice of the time and place of the meeting and of the business to be transacted at the meeting in sufficient detail to enable each director to assess reasonably the importance of such business to the affairs of HoldCo shall be given to each director.
- (j) **Decisions of the Directors.** Decisions or resolutions of the Board shall require the approval of the majority of the directors present at each meeting thereof. The Chair shall not have a second vote. A resolution in writing signed by all of the directors entitled to vote on that resolution at a meeting of the Board is as valid as if it had been passed at a meeting of the Board.
- (k) **Board Duties.** Subject to those matters requiring Shareholder approval as set out in Section 3.9 hereof, the Board shall supervise the management of the business and affairs of HoldCo as required by the OBCA, in particular section 134, and, without limiting the generality of the foregoing, the Board shall be responsible for, but not limited to, overseeing the following specific matters:
- (i) firstly, the establishment of appropriate reserves and a dividend policy consistent with sound financial principles, all of which is subject to the primary objective of minimizing rate impacts on consumers while also attempting to provide the Shareholders with a reasonable rate of return on their investment; and
 - (ii) secondly, subject to the primary objective of minimizing rate impacts on consumers, the declaration of any dividend or distribution of capital in respect of the Shares.
- (l) **Indemnification and Insurance for Directors and Officers.** Each of the Corporations shall indemnify and save its directors and officers harmless from and against any and all liability, damages, costs (including any income tax payable as a result of receiving such indemnity, reasonable counsel fees and disbursements), charges and expenses arising out of or related to any act or omission done or permitted by them to be done in connection with the execution of the duties of their office as directors or officers of any one or more of the Corporations or by reason of their being or having been directors of any one or more of the Corporations and shall provide liability insurance for directors and officers in such amounts as the Board may determine from time to time.

3.3 *Board Committees*

The Board may establish Board Committees from time to time and delegate certain duties to them, including the following:

- (a) **Finance/Audit Committee.** The Board shall appoint members to the Finance/Audit Committee. The Committee Chair shall be a member of the Board. The duties of the Committee will include overseeing the work of the Auditors, preparing Corporate budgets plus reporting and making recommendations to the Board.
- (b) **Human Resources Committee.** The Board shall appoint members to the Human Resources Committee. The Committee Chair shall be a member of the Board. The duties of the Committee will include establishing and altering any salary, bonus or other compensation paid or payable to employees, establishing guidelines for the approval of any collective agreement plus reporting and making recommendations to the Board.
- (c) **General Provisions Relating to Board Committees.** The quorum for meetings of Board Committees shall be a majority of the members from time to time of each Board Committee. Decisions of all Board Committees shall be made by a majority of the members of the respective Board Committee. Except as otherwise provided in this Section 3.3 and subject to the supervision of the Board, each Board Committee shall establish its own rules of procedure for operating in an efficient and expeditious manner.

3.4 *Shareholders Meetings*

A quorum for a meeting of Shareholders shall be at least two (2) individuals representing, by proxy or as otherwise permitted by the Act, both (i) a majority in number of the Shareholders; and (ii) not less than 66 2/3% of the Shares then issued and outstanding. A meeting shall be adjourned for lack of quorum and notice of the adjourned meeting shall be sent to all Shareholders rescheduling the meeting to a date at least seven (7) days following the original meeting date. A quorum for the adjourned meeting shall be at least two (2) individuals representing by proxy or as otherwise permitted by the Act a Shareholder or Shareholders holding at least 66 2/3% of the Shares then issued and outstanding.

The chair of any meeting of the Shareholders of HoldCo shall be the Chair or, in the absence of the Chair, such individual as the Shareholders represented at such meeting shall determine.

Subject to the Act, the Board shall provide the Shareholders with reasonable notice of and detail concerning a Shareholders' meeting in order for the Shareholders to reasonably assess the importance of and prepare for, the Shareholders' meeting.

3.5 *Regular Shareholders Meetings*

Unless the Shareholders otherwise determine, the Shareholders shall meet at least annually at the registered office of HoldCo or at such other times or places as the Shareholders may determine.

3.6 *Decisions of the Shareholders*

- (a) **Decisions of Shareholders.** All decisions of the Shareholders shall require, and shall be deemed to be effective upon: (i) the approval of at least two thirds of the votes cast at a duly constituted meeting of Shareholders; or (ii) the execution of a resolution in writing signed by all the Shareholders entitled to vote on that resolution at a meeting of Shareholders.

3.7 *Shareholder Representative*

At least 30 days prior to the commencement of each Fiscal Year, each Initial Shareholder shall designate the head of its Council (or an alternate duly appointed by Council) as the legal representative of that Initial Shareholder (the "Shareholder Representative") for purposes of providing any consent or approval required by this Agreement or by the Act. The Shareholder Representative shall be the shareholder representative for purposes of this Agreement and of the Act unless the Initial Shareholder determines otherwise. An Initial Shareholder shall designate its Shareholder Representative (by proxy duly completed in accordance with the Act) as its representative to attend and vote at any meeting of Shareholders.

3.8 *Officers*

- (a) The officers of HoldCo shall include a President and such other officers as the Board may determine from time to time. The Board shall appoint the officers of HoldCo from time to time.

- (b) For greater certainty, the parties recognize that in carrying on the ordinary course of Business, it is not practicable for the Board to be involved in the day to day affairs of HoldCo. The Board will delegate responsibilities to the officers, who will report to the Board and the Board Committees from time to time as required.

3.9 *Matters Requiring Shareholder Approval*

The Shareholders and the Corporations agree that, without Shareholder approval given in accordance with Section 3.6, each of Corporations shall not:

- (a) amend its articles (within the meaning of the Act) or enact, revoke, or amend any by-law the Corporations;
- (b) issue, or enter into any agreement to issue, any shares of the Corporations of any class, or any securities convertible into any shares of any class, or grant any option or other right to purchase any such shares or securities convertible into such shares;
- (c) redeem, purchase for cancellation or otherwise retire any of its outstanding shares;
- (d) sell or otherwise dispose of, by conveyance, transfer, lease, sale and leaseback, merger or other reorganization or transaction, mortgage, pledge, charge or otherwise grant a security interest in, all or substantially all of its assets or undertaking;
- (e) enter into any acquisition, joint venture, partnership, strategic alliance or other venture which would require an investment of greater than ten (10%) percent of the net book value of the assets of WiresCo as set out in the most recent audited financial statements of WiresCo;
- (f) grant security for or guarantee, or otherwise become liable for any debt, liability or obligation of any Person other than a subsidiary corporation;
- (g) take or institute the proceedings for any winding up, reorganization or dissolution;
- (h) enter into any amalgamation, arrangement or consolidation;
- (i) apply to continue as a corporation under the laws of another jurisdiction;
- (j) borrow money in excess of \$2 Million, except for borrowing requirements included in the current business plan;
- (k) make any capital expenditure in an amount exceeding \$2 Million, except expenditures included in the current business plan;
- (l) change the auditors or fiscal year of the Corporation;
- (m) take any steps to prevent the Chair of the Board of Directors of HoldCo from attending a public meeting called by any of the Shareholders provided that such Chair shall not be required to publicly disclose sensitive financial, proprietary, business or third party information respecting the Corporations and its affairs at any such public meeting;
- (n) approve a business plan; and
- (o) change, alter or amend the compensation of the Board or the board of directors of any Subsidiary,

and it is agreed that in the exercise of the rights, powers and duties assumed and transferred hereunder, the Shareholders shall be subject to the same liabilities to which the Directors of HoldCo would otherwise have been subject if this Agreement had not been made and the Directors are hereby relieved of their duties and liabilities as directors to the extent the Shareholders are subject therefor.

3.10 *Unanimous Shareholder Agreement*

Each of the Shareholders and HoldCo acknowledge that this Agreement is intended to operate as a unanimous shareholder agreement with respect to HoldCo and each Subsidiary within the meaning of the Act. Pursuant to Section 108(2) of the Act, the discretion and powers of (a) the Board to manage or

supervise the management of the business and affairs of HoldCo and (b) the board of directors of each Subsidiary and HoldCo to manage or supervise the management of the business and affairs of each respective Subsidiary are hereby restricted to the extent of the provisions of Section 3.9 of this Agreement.

3.11 Agreement Binds HoldCo and Subsidiaries

HoldCo and the Subsidiaries, by their execution of or acknowledgement to be bound by this Agreement, acknowledges that they have actual notice of the terms of this Agreement, consent to this Agreement and by this Agreement covenant with each of the Shareholders that they will at all times during the term of this Agreement:

- (a) give or cause to be given such notices, execute or cause to be executed such deeds, transfers and documents as may from time to time be necessary or conducive to the carrying out of the terms and intent of this Agreement;
- (b) do or cause to be done all such acts, matters and things as may from time to time be necessary or conducive to the carrying out of the terms and intent of this Agreement; and
- (c) take no action that would constitute a contravention of any of the terms and provisions of this Agreement.

3.12 Auditors

The Auditors shall be appointed by the Shareholders from time to time.

3.13 Banking

HoldCo's bankers shall be such financial institution as the Board shall from time to time determine. All resolutions respecting banking authority, the opening of bank accounts and the drawing on such accounts shall require the consent of the Board before becoming effective.

3.14 Financial Statements

- (a) HoldCo shall cause to be prepared and delivered to the Shareholders, as soon as reasonably practicable and in no event later than 120 days after the end of each fiscal year of HoldCo, annual audited financial statements, on a consolidated basis, for such fiscal year prepared in accordance with generally accepted accounting principles and accompanied by a report of the Auditors.
- (b) HoldCo shall cause to be prepared and delivered to the Shareholders, as soon as reasonably practicable and in no event later than 45 days after the end of the sixth month of HoldCo's fiscal year, an unaudited balance sheet and a statement of profit and loss for such preceding six months prepared in accordance with generally accepted accounting principles without adjusting entries or review by accountants and signed by an authorized officer of HoldCo, and such other information as may be reasonably requested by the Shareholders.

3.15 Business Plan

Not later than 60 days prior to the end of each fiscal year, the Board will approve and submit to the Shareholders a Business Plan for the next five (5) fiscal years. The Business Plan will be prepared on a consistent basis with the Business Plan then in effect. The Corporations will carry on their businesses and operations in accordance with the Business Plan in respect of the period covered by such plan.

ARTICLE IV

REPRESENTATIONS, WARRANTIES AND COVENANTS

4.1 *Representations and Warranties*

Each of the Shareholders represents and warrants as follows and acknowledges that each of the other parties hereto are relying on such representations and warranties in connection with the entering into of this Agreement:

- (a) it is the registered and beneficial owner of the Shares stated to be owned by such Shareholder in the recitals hereto, free and clear of all Encumbrances and there are no outstanding agreements, options, warrants or other rights capable of becoming an agreement, option or warrant to purchase such Shares;
- (b) it has the power and capacity to own its assets and to enter into and perform its obligations hereunder and has taken all necessary action to authorize the execution and delivery of this Agreement;
- (c) this Agreement and the transactions contemplated herein have been duly authorized by it and constitutes a valid and binding obligation of it enforceable against it in accordance with its terms subject to the laws of bankruptcy and the availability of equitable remedies; and
- (d) the execution, delivery and performance of this Agreement does not and will not contravene the provisions of its articles, by-laws, constating documents or the provisions of any agreement or other instrument to which it is a party or may be bound.

4.2 *Covenants.*

Each of the Shareholders covenants and agrees with each other party hereto that all of the foregoing representations and warranties pertaining to it set forth in Article 4.1 will continue to be true and correct during the continuance of this Agreement.

ARTICLE V

TRANSFER OF SHARES

5.1 *General Restriction on Transfer*

No right, title, benefit or interest in any Shares may be sold, transferred, assigned, made subject to any Encumbrance or otherwise disposed of by any Shareholder for the three (3) year period from the date of this Agreement ending on the third anniversary of the incorporation of HoldCo (the "Hold Period") except with the prior written approval of all of the Shareholders.

Following the Hold Period, save and except for transfers made pursuant to and in accordance with Sections 5.3, 5.4 and 5.5 of this Agreement, no Shares, nor the whole or any item or part of any right, title, benefit or interest therein or thereto, may be sold, transferred, assigned, made subject to any Encumbrance or otherwise disposed. No Shareholder shall be entitled to create or grant an Encumbrance on its Shares.

5.2 *Legend on Shares*

All share certificates representing Shares of HoldCo shall bear on their face the following notation:

"The shares represented by this certificate are subject to the provisions of the Shareholders' Agreement made as of November 1, 2000 among all of the shareholders of the Corporation as at that date, which agreement contains restrictions on the right to sell, transfer, pledge, mortgage, assign, vote or otherwise deal with or encumber such shares. Notice of such restrictions and the other provisions of such agreement is hereby given. A copy of such agreement is available for inspection from the Secretary of the Corporation on request."

5.3 *Rights of First Refusal*

If any Shareholder (in this Article V called the "Selling Shareholder"), after the Hold Period, wishes to sell all, but not less than all, of its Shares to a Person with whom it deals at Arm's Length, the other Shareholders and HoldCo (in this Article V called the "Other Holders") shall have the prior right to purchase such Shares in accordance with the following provisions:

- (a) **Notice of Offer.** A Selling Shareholder shall give to the Secretary of HoldCo and to each Other Holder notice in writing of its desired intention to sell all, but not less than all, of its Shares (in this Article V called the "Offered Shares"). The notice (in this Article called the "Selling Notice") shall have annexed thereto a true copy of the offer, agreement or similar document (the "Offer") containing the terms and conditions pursuant to which the Selling Shareholder wishes to sell the Offered Shares to the prospective purchaser (in this Article V called the "Prospective Purchaser"), who shall be identified, and the price and terms of payment which the Selling Shareholder is willing to accept for the Offered Shares which shall be the same as set forth in the Offer;
- (b) **Offer Open During Notice Period.** The Secretary of HoldCo shall thereupon be deemed to be the agent of the Selling Shareholder for the purposes of offering the Offered Shares to the Other Holders on the terms of payment and for the price contained in the Selling Notice and the offer by the Secretary shall be irrevocable and remain open for acceptance, as hereinafter provided, for a period of 60 days (in this Article V called the "Notice Period") after receipt of the Selling Notice by the Secretary;
- (c) **Acceptance of Offer.** Within 15 Business Days after receipt of the Selling Notice by the Secretary, the Secretary shall offer the Offered Shares for sale to the Other Holders as nearly may be in proportion to the number of Shares held by each such Other Holder respectively as at the date of such offer. The offer by the Secretary shall state that any Other Holder desiring to purchase a number of Offered Shares less than or in excess of its proportion shall indicate in its notice to the Secretary (in this Article V called the "Purchase Notice") stating the number of Offered Shares it desires to purchase. If, within the Notice Period, a Purchase Notice has not been received by the Secretary of HoldCo from an Other Holder, such Other Holder shall be deemed to have declined to purchase the Offered Shares being offered;
- (d) **Excess Shares.** If the Other Holders do not claim their respective proportions, any unclaimed Offered Shares shall be used to satisfy the claims of such Other Holders for Offered Shares in excess of their proportions. If the claims in excess are more than sufficient to exhaust such unclaimed Offered Shares, the unclaimed Offered Shares shall be divided *pro rata* among such Other Holders desiring Offered Shares in excess of their proportion, in proportion to the number of Shares held by them respectively as at the date of such offer, provided that any unclaimed Offered Shares after such *pro rata* division shall be divided *pro rata* among Other Holders in proportion to their claims in excess of their respective proportions determined as aforesaid. Notwithstanding anything to the contrary, no Other Holder shall be bound to purchase any Offered Shares in excess of the amount indicated in its Purchase Notice;
- (e) **No Fractions.** If the Offered Shares are not capable, without division into fractions of Shares, of being offered to or being divided among the Other Holders in the proportions above mentioned, the same shall be offered to or divided among the Other Holders as nearly as may be in the proportions hereinbefore mentioned and any balance shall be offered to or divided among the Other Holders or some of them in such equitable manner as may be determined by the Board;
- (f) **Sale.** If all, but not less than all, of the Offered Shares are accepted by the Other Holders pursuant to the provisions of this Section 5.3, the Offered Shares shall be sold to the Other Holders for the price and for the terms contained in the Selling Notice;
- (g) **Deemed Refusal.** If Purchase Notices have not been received by the Secretary in respect of all of the Offered Shares within the Notice Period, the Other Holders, and each of them, shall be deemed to have declined to purchase the Offered Shares and, subject to the provisions of paragraph (h), the Selling Shareholder may within 60 days after the expiration of the Notice Period sell all, but not less than all, of the Offered Shares to the Prospective Purchaser at the price and upon terms of payment which are not more favourable than those specified in the Selling Notice;

- (h) **Prospective Purchaser Bound.** The Selling Shareholder shall sell the Offered Shares to a Person who is not a party hereto only if such other Person simultaneously with any such sale executes and delivers to each of the other parties hereto a counterpart of this Agreement in which case such Person shall be subject to the same obligations as a party to this Agreement as if it were an original signatory in place of the Selling Shareholder or its predecessor in title originally party to this Agreement, as applicable; and
- (i) **HoldCo as Purchaser.** The Other Holders, except HoldCo, may cause HoldCo to act as an Other Holder.

5.4 *Piggyback Right*

In the event one or more Selling Shareholders receives an Offer and, in accordance with the procedures set forth in Section 5.3, the Other Holders decline to purchase the Offered Shares from the Selling Shareholder(s), and the Shares which the Selling Shareholder(s) wish to sell under the Offer(s) would result in a Person other than an existing Shareholder owning more than 49% of all of the issued and outstanding Shares, then each Other Holder except HoldCo shall have the right to require that all, but not less than all, of its Shares be sold to the Prospective Purchaser, on the same terms and conditions as those set out in the Offer; provided that, if the Prospective Purchaser will not purchase the aggregate amount of Shares which the Selling Shareholder(s) and the Other Holders except HoldCo requested to be sold pursuant to the immediately preceding sentence, the number of Shares which the Selling Shareholder(s) and the Other Holders except HoldCo shall be permitted to sell to the Prospective Purchaser shall be proportionately reduced so that each may sell the same percentage of its Shares. The Other Holders except HoldCo may only exercise their right under this Section 5.4 by written notice given to the Secretary of HoldCo within the Notice Period.

5.5 *Drag-Along Right*

If a Shareholder or Shareholders owning in the aggregate at least eighty percent (80%) of the Shares is or are the Selling Shareholder(s), as the case may be, and

- (a) the Offered Shares are all, but not less than all, of the Selling Shareholders' Shares;
- (b) the Selling Shareholders receive an Offer and, in accordance with the procedures set forth in Section 5.3, the Other Holders decline to purchase all of the Offered Shares; and
- (c) the Prospective Purchaser agrees to purchase all of the outstanding Shares on the terms set forth in the Offer;

then the Selling Shareholder(s) shall have the right, upon written notice given to all Shareholders within 10 Business Days after the Notice Period has expired, to require that all Shareholders sell all their Shares to the Prospective Purchaser. Upon such notice being given, all Shareholders shall be required to sell their Shares to the Prospective Purchaser upon the terms and conditions set forth in the Offer provided that the closings of all such sales shall occur contemporaneously.

ARTICLE VI

CLOSING OF PURCHASE TRANSACTION

6.1 *Time and Place of Closing*

The closing of any purchase and sale of Shares contemplated by Sections 5.3, 5.4 or 5.5 of this Agreement shall unless otherwise agreed upon by the parties to such transaction, take place at the registered office of HoldCo on the date specified in the Selling Notice.

6.2 *Documents to be delivered by the Vendor*

On or before the closing of a purchase and sale of Shares contemplated hereunder, the vendor shall deliver to the purchaser the following (each in form and substance satisfactory to the purchaser):

- (a) a share certificate or certificates representing the Shares being sold, duly endorsed in blank for transfer or newly issued in the name of the purchaser;
- (b) a certificate of a senior officer certifying, for and on behalf of HoldCo, that any representations and warranties made by such vendor in this Agreement are true and correct as of the Closing Date;
- (c) the written release of the vendor of all claims against HoldCo and the Subsidiaries and any of the other Shareholders with respect to any matter or thing arising up to and including the Closing Date as a result of being a Shareholder; and
- (d) such other documents as may be reasonably required by any party to such purchase and sale to properly complete the purchase and sale of the Shares.

6.3 Documents to be delivered by the Purchaser

On or before the closing of a purchase and sale of Shares contemplated hereunder, the purchaser shall deliver to the vendor the following:

- (a) a certified cheque or bank draft in an amount equal to the purchase price for the Shares being purchased;
- (b) in the event Shares are sold to a Person who is not a Shareholder, pursuant to Sections 5.3 or 5.4 hereof, a duly executed counterpart of this Agreement or other agreement pursuant to which such Person agrees to be bound by the provisions hereof, and
- (c) such other documents as may be reasonably required by any party to such purchase and sale to properly complete the purchase and sale of the Shares.

6.4 Failure to Complete Sale

In the event the vendor fails to complete the subject purchase and sale transaction, the purchaser shall have the right to deposit the purchase price for the subject Shares for the account of the vendor in an interest-bearing account at a branch of HoldCo's bankers. Thereafter, notwithstanding that the documents required pursuant to Section 6.2 have not been delivered by the vendor, the purchase and sale of the subject Shares shall be deemed to be fully completed and all right, title, benefit and interest, both at law and in equity, in and to the subject Shares shall be deemed to have been transferred and assigned to and become vested in the purchaser and all right, title, benefit and interest, both at law and in equity, of the vendor or any other Person having an interest in and to the subject Shares shall cease and the records of HoldCo shall be amended accordingly.

ARTICLE VII

NON-COMPETITION AND CONFIDENTIALITY

7.1 Non-Competition

- (a) Each Shareholder covenants and agrees that it shall not, except through the Corporations or otherwise with the consent of all Shareholders, or as provided in Section 7.1 (b), directly or indirectly, from the date hereof until two (2) years after the party ceases to be a Shareholder, compete within (i) Ontario; (ii) Central Ontario; or (iii) Niagara Region with the Business, whether by carrying on or engaging in or being concerned with or interested in or advising, lending money to, guaranteeing the debts or obligations of or permitting the party's name or any part thereof to be used or employed by any Person engaged in or concerned with or interested in any business within (i) Ontario; (ii) Central Ontario; or (iii) Niagara Region that is competitive with the Business, or otherwise.
- (b) The parties acknowledge that (i) a municipality (other than a Shareholder) which is a shareholder of one or more corporations incorporated under the Act for the purposes of generating, transmitting, distributing or retailing electricity, and (ii) a person which holds a portfolio investment of less than 5% of the shares of a corporation whose shares are publicly traded which competes with the Business is permitted to become a Shareholder in accordance with the

provisions of this Agreement without such investment in such other entity or entities being considered a breach of Subsection 7.1 (a).

7.2 *Confidentiality*

Each Shareholder shall not use or disclose to any Person other than in the ordinary course of the Business, directly or indirectly, any Confidential Information at any time other than to employees, officers or directors of such Shareholder provided that all such Persons shall treat such information as confidential and not disclose same to any Third Party nor use the same for any purpose other than for the purposes of the Corporations or in respect of a Shareholder's investment in the Corporations, provided, however, that nothing in this Article VII shall preclude a Shareholder from disclosing or using Confidential Information if:

- (a) the Confidential Information is available to the public or in the public domain at the time of such disclosure or use, without breach of this Agreement;
- (b) disclosure of Confidential Information is required to be made by any law, regulation, governmental body or authority or by court order;
- (c) disclosure of Confidential Information is made in connection with any arbitration pursuant to Section 10.3;
- (d) disclosure of Confidential Information is made to a court which is determining the rights of the parties under this Agreement;
- (e) the Confidential Information is properly within the legitimate possession of a Shareholder prior to its disclosure hereunder and without any obligation of confidentiality;
- (f) after disclosure, the Confidential Information is lawfully received by a Shareholder from another Person who is lawfully in possession of such information and such other Person is not restricted from disclosing the information to the Shareholder;
- (g) the disclosure of Confidential Information is necessary to complete a transfer of Shares in accordance with this Agreement;
- (h) the Confidential Information is independently developed by a Shareholder through Persons who have not had access to, or knowledge of, the Confidential Information, other than as permitted in (a) through (g) above or (i) below; or
- (i) the Confidential Information is approved by the Corporations for disclosure prior to its actual disclosure.

Each Shareholder acknowledges and agrees that the obligations under this Section 7.2 shall remain in effect for the period of two (2) years after it ceases to be a Shareholder. Notwithstanding the foregoing restrictions, the Board shall be entitled in its discretion to discuss the affairs of the Corporations with the officers, directors, employees and representatives of such Shareholder.

Each Shareholder further acknowledges and agrees that it remains bound by the provisions of the Confidentiality Agreement entered into as of the 22nd day of March 2000, by each of the Initial Shareholders and their respective Predecessor Utilities.

7.3 *Injunctive Relief*

Each Shareholder understands and agrees that HoldCo, and consequently the other parties, will suffer irreparable harm in the event that the Shareholder breaches any of the obligations set out in this Article VII and that monetary damages shall be inadequate to compensate for the breach. Accordingly, each Shareholder agrees that, in the event of a breach or threatened breach by it of any of the provisions of this Article VII, HoldCo and the other parties hereto, in addition to and not in limitation of any other rights, remedies or damages available to them at law or in equity, shall be entitled to an interim injunction, interlocutory injunction and permanent injunction in order to prevent or to restrain any such breach by the Shareholder.

7.4 *Accounting for Profits*

Each Shareholder agrees that in the event of a violation of any of its covenants or agreements under this Article VII, HoldCo shall be entitled to an accounting and repayment of all profits, compensation, royalties, commissions, remunerations or benefits which the Shareholder directly or indirectly shall have realized or may realize relating to, growing out of, or in connection with any such violation(s); this remedy shall be in addition to and not in limitation of any injunctive relief or other rights or remedies to which HoldCo and the other parties are or may be entitled at law or in equity or otherwise under this Article VII.

7.5 *Reasonableness of Restrictions*

Each Shareholder acknowledges that it has given careful consideration to the provisions of Sections 7.1 to 7.4 above and, having done so, agrees that the restrictions set forth in those sections are fair and reasonable and are reasonably required for the protection of the other Shareholders' investments in HoldCo and for the protection of the interests of HoldCo and its Business, and that it is being reasonably compensated for the imposition of such restrictions.

ARTICLE VIII

BOOKS, RECORDS AND RIGHT TO INFORMATION

8.1 *Books and Records*

HoldCo shall at all times maintain at its registered office proper books of account, which shall contain accurate and complete records of all transactions, receipts, expenses, assets and liabilities of HoldCo.

8.2 *Right to Information*

The parties covenant and agree that each Shareholder of HoldCo shall have rights of inspection as set out in Sections 140, 141, 144 and 145 of the Act.

8.3 *Right to Attend Shareholder Meetings*

Each Shareholder entitled to vote at a meeting of Shareholders shall have the right to attend at a meeting of Shareholders.

8.4 *Reporting on Developments*

The Board shall appoint an individual or individuals to report to the Shareholders from time to time on developments in the Corporations as considered appropriate by the Board.

ARTICLE IX

TERM

9.1 *Term and Automatic Renewal*

This Agreement shall come into force and effect as at and from the date of this Agreement and shall continue in force for five (5) years at which time this Agreement shall be automatically renewed for further successive terms of five (5) years each.

ARTICLE X

GENERAL

10.1 *Notices*

All notices, requests, demands, consents or other communications required to be given or made or provided for in this Agreement shall be in writing and shall be deemed to have been given if delivered, if sent by registered mail or if sent by facsimile or other means of electronic transmission to:

Lincoln at:

The Corporation of the Town of Lincoln
4800 South Service Road
Beamsville, ON L0R 1B1

Pelham to:

The Corporation of the Town of Pelham
20 Pelham Town Square
Box 400
Fonthill, ON L0S 1E0

West Lincoln to:

The Corporation of the Township of West Lincoln
318 Canboro Street, Box 400
Smithville ON L0R 2A0

HoldCo to:

4548 Ontario Street
Unit #2
Beamsville, ON L0R 1B5

WiresCo to:

4548 Ontario Street
Unit #2
Beamsville, ON L0R 1B5

CompetitiveCo to:

4548 Ontario Street
Unit #2
Beamsville, ON L0R 1B5

or at such other addresses as the party to whom such notice is to be given may have designated by notice so given to the other parties. Any notice so mailed shall be deemed to have been given on the fifth Business Day following the date of the mailing of the same or if delivered, on the date of delivery and any notice given by facsimile or other means of electronic communication shall be deemed to have been received on the Business Day following the date on which such transmission is completed and the appropriate confirmation received.

10.2 Assignment and Binding Effect

This Agreement is not assignable by any party except insofar as its benefit and burden pass with the Shares transferred in accordance with its provisions. This Agreement shall be binding on and enure to the benefit of the parties hereto and their respective successors and permitted assigns. Reference in this Agreement to any party shall be deemed to include reference to such party and its respective successors and assigns as permitted hereunder.

10.3 Arbitration

- (a) **Selection of Single Arbitrator.** The Shareholders agree that any controversy, dispute or claim between them or any of them arising out of or relating to this Agreement or the performance, enforcement, breach, termination or validity of it, including the determination of the scope of the Agreement to arbitrate, shall be determined by arbitration before a single arbitrator (the "Arbitrator") agreed to by all of the Shareholders. If the Shareholders are unable to agree on the Arbitrator, then, an application may be made under the Arbitration Act to a judge for the appointment.

- (b) **Referring Dispute**. Any Shareholder may refer a dispute to the Arbitrator by providing notice in writing to the Arbitrator and to all of the Shareholders hereto expressing its intention to refer the dispute to arbitration and briefly describing the nature of the dispute.
- (c) **Attempted Settlement**. Upon service of the notice referred to above, the Shareholders who are party to the dispute (the "Disputing Shareholders") will attempt to negotiate a settlement of the dispute amongst themselves. In the event that the parties are unable to reach settlement by themselves within 10 days of the service of the notice referred to above, the Shareholders will proceed with the arbitration and any Disputing Shareholders shall be free to apply to the Arbitrator for directions as to the scheduling of the arbitration itself and the pre-hearing procedures.
- (d) **Decision Final and Binding**. The Shareholders agree that the award of the Arbitrator shall be final and binding without any right of appeal and shall be the sole and exclusive remedy between them regarding any claims, counterclaims, issues or disputes referred to the Arbitrator.
- (e) **Place of Arbitration**. The arbitration shall take place in the Niagara Region, and shall be governed by the laws of the Province of Ontario.
- (f) **Powers of Arbitrator**. The Shareholders agree that the Arbitrator shall have the powers and jurisdiction of an arbitrator pursuant to the Arbitration Act and such power shall include the power to award interim and interlocutory injunctions and other equitable relief.
- (g) **Costs**. The Arbitrator shall have the power to award the costs of the Arbitrator's services and related costs against either party, however, each party will bear the costs of their own counsel and witness fees.
- (h) **Written Notices**. All notices by one Shareholder to the other in connection with the arbitration shall be in writing and shall be deemed to have been duly given or made if delivered or sent by facsimile transmission to the addresses provided in this Agreement.

10.4 Further Assurances

Each party hereto shall do such acts and shall execute such further documents, conveyances, deeds, assignments, transfers and the like, and will cause the doing of such acts and will cause the execution of such further documents as are within its power as any other party may in writing at any time and from time to time reasonably request be done and or executed, in order to give full effect to the provisions of this Agreement.

10.5 Severability

If any provision of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction from which no further appeal lies or is taken, that provision shall be deemed to be severed herefrom, and the remaining provisions of this Agreement shall not be affected thereby and shall remain valid and enforceable.

10.6 Amendment, Modification and Waiver

This Agreement may not be modified, amended, terminated or supplemented except as agreed, in writing, by Shareholders both comprising a majority in number of the Shareholders and holding not less than 66 2/3% of the Shares then issued and outstanding. Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

10.7 Amalgamation of Initial Shareholder(s)

- (a) **Allocation of Proceeds on Sale of Amalgamated Shareholder.** In the event that: (i) two or more Initial Shareholders are amalgamated ("Amalgamated Shareholder") and (ii) the Amalgamated Shareholder's interest in HoldCo is sold, it is the intention of the Initial Shareholders that the proceeds of disposition from the sale of the Amalgamated Shareholder's interest in HoldCo be allocated in proportion to the preamalgamation percentage of the Amalgamated Shareholder's shareholdings in HoldCo and used for the benefit of the residents within the municipal boundaries of the Initial Shareholders on the date hereof.
- (b) **Allocation of Dividends Held in Reserve.** Each of the Initial Shareholders shall create a reserve fund (a "Reserve") to receive dividends paid by HoldCo. The Initial Shareholders may use any funds in their respective Reserve in the discretion of the applicable Council for the benefit of residents within its municipal boundaries. In the event that two or more Initial Shareholders are amalgamated, it is the intention of the Initial Shareholders that any amounts held in Reserves be used for the benefit of the residents within the boundaries of the Initial Shareholders on the date hereof to which each Reserve initially applied.
- (c) **Allocation of Dividends Received by Amalgamated Shareholder.** In the event that two or more Initial Shareholders are amalgamated, it is the intention of the Initial Shareholders that following the amalgamation, the Amalgamated Shareholder will allocate for use all dividends received from HoldCo to the residents within the municipal boundaries of the Initial Shareholders on the date hereof in proportion to the pre-amalgamation percentages of each Initial Shareholder in HoldCo.
- (d) **Best Efforts to Obtain Order.** The Initial Shareholders shall use their best efforts to ensure that the foregoing intentions contained in this Section 10.7 are achieved by requesting that provisions with substantially the same content as above be incorporated into any applicable order of the Ontario government relating to an Amalgamated Shareholder.

10.8 *Time of Essence*

Time is of the essence of this Agreement.

10.9 *Counterparts*

This Agreement may be executed in any number of counterparts, each of which deemed to be an original and all of which taken together shall constitute one agreement.

10.10 *No Partnership*

Nothing in this Agreement shall be deemed in any way or for any purpose to constitute a party a partner of or a joint venture with any other party.

10.11 *Proceedings*

The covenants, agreements and obligations herein expressed to be observed and performed by the parties hereto may be enforced by any of the parties hereto pursuant to Section 10.3 without joining the remaining parties as parties in any proceedings.

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement as of the date first above written.

THE CORPORATION OF THE TOWN OF LINCOLN

By: Ray A. Konkle c/s
Mayor

By: P. J. M. G. c/s
Clerk

THE CORPORATION OF THE TOWN OF PELHAM

By: Ralph Bessner c/s
Mayor

By: Cheryl M. M. M. c/s
Clerk

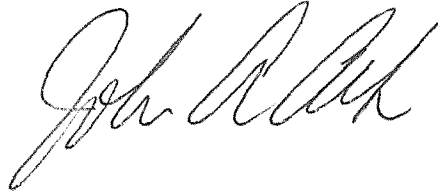
THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN

By: Lorne K. Nelson c/s
Mayor

By: A. G. Hayden c/s
Clerk

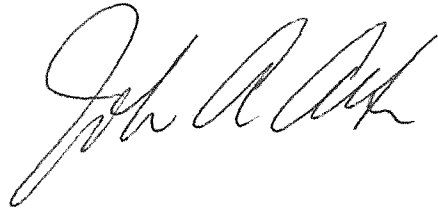
PENINSULA WEST POWER INC.

By: Ray A. Konkoo c/s



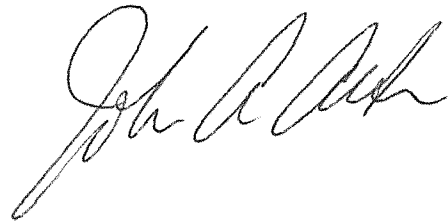
PENINSULA WEST UTILITIES LIMITED.

By: Muan Walker c/s



PENINSULA WEST SERVICES LTD.

By: John A. Alth c/s



SCHEDULE 'B'

THIS AGREEMENT made as of the day of October, 2000.

BETWEEN:

The Corporation of the Town of Lincoln, a municipal corporation existing under the laws of Ontario

("Lincoln")

- and -

The Corporation of the Town of Pelham, a municipal corporation existing under the laws of Ontario

("Pelham")

- and -

The Corporation of the Township of West Lincoln, a municipal corporation existing under the laws of Ontario

("West Lincoln")

- and -

Peninsula West Power Inc., a corporation existing under the laws of Ontario

("HoldCo")

- and -

Peninsula West Utilities Limited., a corporation existing under the laws of Ontario

("WiresCo")

- and -

Peninsula West Services Ltd., a corporation existing under the laws of Ontario

("CompetitiveCo")

Recitals:

1. HoldCo is a corporation existing under the laws of Ontario;
2. The authorized capital of HoldCo consists of an unlimited number of Shares of which 100 are issued and outstanding as fully paid and non-assessable;
3. Lincoln, Pelham and West Lincoln are the sole registered and beneficial shareholders of HoldCo, holding the following numbers of Shares, respectively:

SCHEDULE "B"
TO BY-LAW #2211 (2000)

Shareholders' Agreement