

ENBRIDGE INC  
Form 6-K  
May 08, 2014  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
**WASHINGTON, D.C. 20549**

**FORM 6-K**

**Report of Foreign Issuer**  
**Pursuant to Rule 13a-16 or 15d-16 of**  
**the Securities Exchange Act of 1934**  
**Dated May 8, 2014**  
**Commission file number 001-15254**

**ENBRIDGE INC.**  
**(Exact name of Registrant as specified in its charter)**

**Canada**  
**(State or other jurisdiction)**

**None**  
**(I.R.S. Employer)**

**of incorporation or organization)**

**Identification No.)**

**3000, 425 1<sup>st</sup> Street S.W.**

**Calgary, Alberta, Canada T2P 3L8**

**(Address of principal executive offices and postal code)**

**(403) 231-3900**

**(Registrants telephone number, including area code)**

Indicate by check mark whether the Registrant files or will file annual reports under cover of Form 20-F or Form 40-F.

Form 20-F ☐ Form 40-F ☒

Indicate by check mark if the Registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(1):

Yes ☐ No ☒

Indicate by check mark if the Registrant is submitting the Form 6-K in paper as permitted by regulation S-T Rule 101(b)(7):

Yes ☐ No ☒

Indicate by check mark whether the Registrant by furnishing the information contained in this Form is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934.

Yes ☐ No ☒

If ☒ Yes is marked, indicate below the file number assigned to the Registrant in connection with Rule 12g3-2(b):

N/A

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THIS REPORT ON FORM 6-K SHALL BE DEEMED TO BE INCORPORATED BY REFERENCE IN THE REGISTRATION STATEMENTS ON FORM S-8 (FILE NO. 333-145236, 333-127265, 333-13456, 333-97305 AND 333-6436), FORM F-3 (FILE NO. 333-185591 AND 33-77022) AND FORM F-10 (FILE NO. 333-189157) OF ENBRIDGE INC. AND TO BE PART THEREOF FROM THE DATE ON WHICH THIS REPORT IS FURNISHED, TO THE EXTENT NOT SUPERSEDED BY DOCUMENTS OR REPORTS SUBSEQUENTLY FILED OR FURNISHED.

The following documents are being submitted herewith:

The Shareholders Rights Plan Agreement dated November 9, 1995 and amended and restated as of May 7, 2014

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

ENBRIDGE INC.  
(Registrant)

Date: May 8, 2014

By: /s/ Tyler W. Robinson  
Tyler W. Robinson  
Vice President & Corporate Secretary

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SHAREHOLDER RIGHTS PLAN AGREEMENT

DATED AS OF NOVEMBER 9, 1995

AND AMENDED AND RESTATED AS OF MAY 1, 1996, FEBRUARY 24, 1999

MAY 3, 2002, MAY 5, 2005, MAY 7, 2008, MAY 11, 2011 AND MAY 7, 2014

BETWEEN

ENBRIDGE INC.

AND

CST TRUST COMPANY

AS RIGHTS AGENT

McCarthy Tétrault LLP

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SHAREHOLDER RIGHTS PLAN AGREEMENT

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**SHAREHOLDER RIGHTS PLAN AGREEMENT**

MEMORANDUM OF AGREEMENT dated as of November 9, 1995 and amended and restated as of May 1, 1996, February 24, 1999, May 3, 2002, May 5, 2005, May 7, 2008, May 11, 2011 and May 7, 2014 between Enbridge Inc. (formerly, IPL Energy Inc.) (the **Corporation**), a corporation incorporated under the *Canada Business Corporations Act* and CST Trust Company, a trust company incorporated under the laws of Canada (the **Rights Agent**) which replaced CIBC Mellon Trust Company (the successor to The R-M Trust Company), as rights agent;

WHEREAS the Board of Directors of the Corporation has determined that it is in the best interests of the Corporation to adopt a shareholder rights plan to insure, to the extent possible, that all shareholders of the Corporation are treated fairly in connection with any take-over bid for the Corporation;

AND WHEREAS in order to implement the adoption of a shareholder rights plan as established by this Agreement, the Board of Directors of the Corporation has:

- (a) authorized the issuance, effective at 12:01 a.m. (Calgary time) on the Effective Date (as hereinafter defined), of one Right (as hereinafter defined) in respect of each Common Share (as hereinafter defined) outstanding at 12:01 a.m. (Calgary time) on the Effective Date (the **Record Time**); and
- (b) authorized the issuance of one Right in respect of each Common Share of the Corporation issued after the Record Time and prior to the earlier of the Separation Time (as hereinafter defined) and the Expiration Time (as hereinafter defined);

AND WHEREAS each Right entitles the holder thereof, after the Separation Time, to purchase securities of the Corporation pursuant to the terms and subject to the conditions set forth herein;

AND WHEREAS the Corporation desires to appoint the Rights Agent to act on behalf of the Corporation and the holders of Rights, and the Rights Agent is willing to so act, in connection with the issuance, transfer, exchange and replacement of Rights Certificates (as hereinafter defined), the exercise of Rights and other matters referred to herein;

AND WHEREAS this agreement was originally entered into by the Corporation and the rights agent as of November 9, 1995 and has been amended from time to time since then (such agreement as amended being the **Original Agreement**);

AND WHEREAS the Original Agreement is hereby amended and restated as provided herein (the Original Agreement as so amended and restated being herein referred to as the **Agreement**);



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NOW THEREFORE, in consideration of the premises and the respective covenants and agreements set forth herein, and subject to such covenants and agreements, the parties hereby agree as follows:

**ARTICLE 1 - INTERPRETATION**

**1.1 Certain Definitions**

For purposes of this Agreement, the following terms have the meanings indicated:

- (a) **Acquiring Person** shall mean any Person who is the Beneficial Owner of 20% or more of the outstanding Voting Shares; provided, however, that the term **Acquiring Person** shall not include:
  - (i) the Corporation or any Subsidiary or Affiliate of the Corporation;
  - (ii) any Person who becomes the Beneficial Owner of 20% or more of the outstanding Voting Shares as a result of one or any combination of (A) a Voting Share Reduction, (B) Permitted Bid Acquisitions, (C) an Exempt Acquisition or (D) Pro Rata Acquisitions; provided, however, that if a Person becomes the Beneficial Owner of 20% or more of the outstanding Voting Shares by reason of one or any combination of the operation of Paragraphs (A), (B), (C) or (D) above and such Person's Beneficial Ownership of Voting Shares thereafter increases by more than 1.0% of the number of Voting Shares outstanding (other than pursuant to one or any combination of a Voting Share Reduction, a Permitted Bid Acquisition, an Exempt Acquisition or a Pro Rata Acquisition), then as of the date such Person becomes the Beneficial Owner of such additional Voting Shares, such Person shall become an **Acquiring Person** ;
  - (iii) for a period of ten days after the Disqualification Date (as defined below), any Person who becomes the Beneficial Owner of 20% or more of the outstanding Voting Shares as a result of such Person becoming disqualified from relying on Clause 1.1(f)(v) solely because such Person or the Beneficial Owner of such Voting Shares is making or has announced an intention to make a Take-over Bid, either alone or by acting jointly or in concert with any other Person. For the purposes of this definition, **Disqualification Date** means the first date of public announcement that any Person is making or has announced an intention to make a Take-over Bid;
  - (iv) an underwriter or member of a banking or selling group that becomes the Beneficial Owner of 20% or more of the Voting Shares in connection with a distribution of securities of the Corporation; or
  - (v) a Person (a **Grandfathered Person** ) who is the Beneficial Owner of 20% or more of the outstanding Voting Shares of the Corporation determined as at the Record Time, provided, however, that this exception shall not be, and shall cease to be, applicable to a Grandfathered Person in the event that such Grandfathered Person shall, after the Record Time, become the Beneficial Owner of additional

Voting Shares of the Corporation that increases its Beneficial Ownership of Voting Shares by

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more than 1% of the number of Voting Shares outstanding as at the Record Time (other than pursuant to one or any combination of a Voting Share Reduction, a Permitted Bid Acquisition, an Exempt Acquisition or a Pro Rata Acquisition);

- (b) **Affiliate** : when used to indicate a relationship with a Person means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such specified Person;
- (c) **Agreement** shall mean this shareholder rights plan agreement dated as of November 9, 1995 and amended and restated as of May 1, 1996, February 24, 1999, May 3, 2002, May 5, 2005, May 7, 2008, May 11, 2011 and May 7, 2014 between the Corporation and the Rights Agent, as the same may be further amended or supplemented from time to time; hereof , herein , hereto and similar expressions mean and refer to this Agreement as a whole and not to any particular part of this Agreement;
- (d) **annual cash dividend** shall mean cash dividends paid in any fiscal year of the Corporation to the extent that such cash dividends do not exceed, in the aggregate, the greatest of:
  - (i) 200 per cent of the aggregate amount of cash dividends declared payable by the Corporation on its Common Shares in its immediately preceding fiscal year;
  - (ii) 300 per cent of the arithmetic mean of the aggregate amounts of the annual cash dividends declared payable by the Corporation on its Common Shares in its three immediately preceding fiscal years; and
  - (iii) 100 per cent of the aggregate consolidated net income of the Corporation, before extraordinary items, for its immediately preceding fiscal year;
- (e) **Associate** means, when used to indicate a relationship with a specified Person, a spouse of that Person, any Person of the same or opposite sex with whom that Person is living in a conjugal relationship outside marriage, a child of that Person or a relative of that Person if that relative has the same residence as that Person;
- (f) A Person shall be deemed the **Beneficial Owner** of, and to have **Beneficial Ownership** of, and to **Beneficially Own** ,
  - (i) any securities as to which such Person or any of such Person's Affiliates or Associates is the owner at law or in equity;

- (ii) any securities as to which such Person or any of such Person's Affiliates or Associates has the right to become the owner at law or in equity (where such right is exercisable immediately or within a period of 60 days and whether or not on condition or the happening of any contingency or the making of any payment) pursuant to any agreement, arrangement, pledge

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or understanding, whether or not in writing (other than (x) customary agreements with and between underwriters and/or banking group members and/or selling group members with respect to a public offering or private placement of securities and (y) pledges of securities in the ordinary course of business), or upon the exercise of any conversion right, exchange right, share purchase right (other than the Rights), warrant or option; or

(iii) any securities which are Beneficially Owned within the meaning of Clauses 1.1(f)(i) and (ii) by any other Person with whom such Person is acting jointly or in concert; provided, however, that a Person shall not be deemed the **Beneficial Owner** of, or to have **Beneficial Ownership** of, or to **Beneficially Own**, any security:

(iv) where such security has been, or has been agreed to be, deposited or tendered pursuant to a Lock-up Agreement or is otherwise deposited or tendered to any Take-over Bid made by such Person, made by any of such Person's Affiliates or Associates or made by any other Person acting jointly or in concert with such Person until such deposited or tendered security has been taken up or paid for, whichever shall first occur;

(v) where such Person, any of such Person's Affiliates or Associates or any other Person acting jointly or in concert with such Person holds such security provided that:

A. the ordinary business of any such Person (the **Investment Manager**) includes the management of investment funds for others (which others, for greater certainty, may include or be limited to one or more employee benefit plans or pension plans) and such security is held by the Investment Manager in the ordinary course of such business in the performance of such Investment Manager's duties for the account of any other Person (a **Client**), including non-discretionary accounts held on behalf of a Client by a broker or dealer appropriately registered under applicable law;

B. such Person (the **Trust Company**) is licensed to carry on the business of a trust company under applicable laws and, as such, acts as trustee or administrator or in a similar capacity in relation to the estates of deceased or incompetent Persons (each an **Estate Account**) or in relation to other accounts (each an **Other Account**) and holds such security in the ordinary course of such duties for the estate of any such deceased or incompetent Person or for such Other Accounts;

C. such Person is established by statute for purposes that include, and the ordinary business or activity of such Person (the **Statutory**

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**Body** ) includes, the management of investment funds for employee benefit plans, pension plans, insurance plans or various public bodies;

D. such Person (the **Administrator** ) is the administrator or trustee of one or more pension funds or plans (a **Plan** ), or is a Plan, registered under the laws of Canada or any Province thereof or the laws of the United States of America or any State thereof;

E. such Person (the **Crown Agent** ) is a Crown agent or agency; or

F. such Person (the **Manager** ) is the manager or trustee of a mutual fund ( **Mutual Fund** ) that is registered or qualified to issue its securities to investors under the securities laws of any province of Canada or the laws of the United States of America or is a Mutual Fund.

provided, in any of the above cases, that the Investment Manager, the Trust Company, the Statutory Body, the Administrator, the Plan, the Crown Agent, the Manager or the Mutual Fund, as the case may be, is not then making a Take-over Bid or has not then announced an intention to make a Take-over Bid alone or acting jointly or in concert with any other Person, other than an Offer to Acquire Voting Shares or other securities (x) pursuant to a distribution by the Corporation, (y) by means of a Permitted Bid or (z) by means of ordinary market transactions (including prearranged trades entered into in the ordinary course of business of such Person) executed through the facilities of a stock exchange or organized over-the-counter market;

(vi) where such Person is (A) a Client of the same Investment Manager as another Person on whose account the Investment Manager holds such security, (B) an Estate Account or an Other Account of the same Trust Company as another Person on whose account the Trust Company holds such security or (C) a Plan with the same Administrator as another Plan on whose account the Administrator holds such security;

(vii) where such Person is (A) a Client of an Investment Manager and such security is owned at law or in equity by the Investment Manager, (B) an Estate Account or an Other Account of a Trust Company and such security is owned at law or in equity by the Trust Company or (C) a Plan and such security is owned at law or in equity by the Administrator of the Plan; or

(viii) where such Person is a registered holder of such security as a result of carrying on the business of, or acting as a nominee of, a securities depository;

(g) **Board of Directors** shall mean the board of directors of the Corporation or any duly constituted and empowered committee thereof;

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- (h) **Business Day** shall mean any day other than a Saturday, Sunday or a day on which banking institutions in Calgary are authorized or obligated by law to close;
- (i) **Canada Business Corporations Act** means the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended, and the regulations made thereunder, and any comparable or successor laws or regulations thereto;
- (j) **Canadian Dollar Equivalent** of any amount which is expressed in United States Dollars means, on any date, the Canadian dollar equivalent of such amount determined by multiplying such amount by the U.S. - Canadian Exchange Rate in effect on such date;
- (k) **close of business** on any given date shall mean the time on such date (or, if such date is not a Business Day, the time on the next succeeding Business Day) at which the principal transfer office in Calgary of the transfer agent for the Common Shares of the Corporation (or, after the Separation Time, the principal transfer office in Calgary of the Rights Agent) is closed to the public;
- (l) **Common Shares** shall mean the Common Shares in the capital of the Corporation;
- (m) **Competing Permitted Bid** means a Take-over Bid that:
  - (i) is made after a Permitted Bid has been made and prior to the expiry of the Permitted Bid;
  - (ii) satisfies all components of the definition of a Permitted Bid other than the requirements set out in Clause 1.1(ii)(ii)(A) of the definition of a Permitted Bid; and
  - (iii) contains, and the take-up and payment for securities tendered or deposited is subject to, an irrevocable and unqualified condition that no Voting Shares will be taken up or paid for pursuant to the Take-over Bid prior to the close of business on a date that is no earlier than the later of: (A) the 60th day after the date on which the earliest Permitted Bid which preceded the Competing Permitted Bid was made; and (B) 35 days after the date of the Take-over Bid constituting the Competing Permitted Bid;
- (n) **controlled** : a Person is controlled by another Person or two or more other Persons acting jointly or in concert if:
  - (i) in the case of a body corporate, securities entitled to vote in the election of directors of such body corporate carrying more than 50% of the votes for the election of directors are held, directly or indirectly, by or for the benefit of the other Person or Persons and the votes carried by such

securities are entitled, if exercised, to elect a majority of the board of directors of such body corporate; or

- (ii) in the case of a Person which is not a body corporate, more than 50% of the voting or equity interests of such entity are held, directly or indirectly, by or for the benefit of the other Person or Persons;

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and controls, controlling and under common control with shall be interpreted accordingly;

- (o) **Co-Rights Agents** shall have the meaning ascribed thereto in Subsection 4.1(a);
- (p) **Disposition Date** shall have the meaning ascribed thereto in Subsection 5.1(h);
- (q) **Dividend Reinvestment Acquisition** shall mean an acquisition of Voting Shares pursuant to a Dividend Reinvestment Plan;
- (r) **Dividend Reinvestment Plan** means a regular dividend reinvestment or other plan of the Corporation made available by the Corporation to holders of its securities where such plan permits the holder to direct that some or all of:
  - (i) dividends paid in respect of shares of any class of the Corporation;
  - (ii) proceeds of redemption of shares of the Corporation;
  - (iii) interest paid on evidences of indebtedness of the Corporation; or
  - (iv) optional cash payments;be applied to the purchase from the Corporation of Voting Shares;
- (s) **Election to Exercise** shall have the meaning ascribed thereto in Clause 2.2(d)(ii);
- (t) **Effective Date** means November 9, 1995;
- (u) **Exempt Acquisition** means a share acquisition in respect of which the Board of Directors has waived the application of Section 3.1 pursuant to the provisions of Subsection 5.1(a) or (h);
- (v) **Exercise Price** shall mean, as of any date, the price at which a holder may purchase the securities issuable upon exercise of one whole Right which, until adjustment thereof in accordance with the terms hereof, shall be \$200;

- (w) **Expansion Factor** shall have the meaning ascribed thereto in Clause 2.3(a)(x);
- (x) **Expiration Time** shall mean the date of termination of this Agreement pursuant to Section 5.16;
- (y) **Flip-in Event** shall mean a transaction in or pursuant to which any Person becomes an Acquiring Person;

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- (z) **holder** shall have the meaning ascribed thereto in Section 2.8;
  
- (aa) **Independent Shareholders** shall mean holders of Voting Shares, other than:
  - (i) any Acquiring Person;
  
  - (ii) any Offeror (other than any Person who, by virtue of Clause 1.1(f)(v), is not deemed to Beneficially Own the Voting Shares held by such Person);
  
  - (iii) any Affiliate or Associate of any Acquiring Person or Offeror;
  
  - (iv) any Person acting jointly or in concert with any Acquiring Person or Offeror; and
  
  - (v) any employee benefit plan, deferred profit sharing plan, stock participation plan and any other similar plan or trust for the benefit of employees of the Corporation unless the beneficiaries of the plan or trust direct the manner in which the Voting Shares are to be voted or withheld from voting or direct whether the Voting Shares are to be tendered to a Take-over Bid;
  
- (bb) **Lock-up Agreement** means an agreement (the terms of which are publicly disclosed and a copy of which is made available to the public (including the Corporation):
  - (i) not later than the date on which the Lock-up Bid (as defined below) is publicly announced; or
  
  - (ii) if the Lock-up Bid has been made prior to the date on which such agreement has been entered into, forthwith and in any event not later than the Business Day following the date of such agreement); between an Offeror, any of its Affiliates or Associates or any other Person acting jointly or in concert with the Offeror and a Person (the **Locked-up Person** ) who is not an Affiliate or Associate of the Offeror or a Person acting jointly or in concert with the Offeror whereby the Locked-up Person agrees to deposit or tender the Voting Shares held by the Locked-up Person to the Offeror's Take-over Bid or to any Take-over Bid made by any of the Offeror's Affiliates or Associates or made by any other Person acting jointly or in concert with the Offeror (the **Lock-up Bid** ), where the agreement:
  
  - (iii) (A) permits the Locked-up Person to withdraw the Voting Shares from the agreement in order to tender or deposit the Voting Shares to another Take-over Bid, or to support another transaction that provides for a consideration for each Voting Share that is higher than the consideration contained in or proposed to be contained in the Lock-up Bid; or



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- (B) (a) permits the Locked-up Person to withdraw the Voting Shares from the agreement in order to tender or deposit the Voting Shares to another Take-over Bid, or to support another transaction that provides for a consideration for each Voting Share that exceeds by as much as or more than a specified amount the ( **Specified Amount** ) the consideration for each Voting Share contained in or proposed to be contained in, and is made for at least the same number of Voting Shares as, the Lock-up Bid; and (b) does not by its terms provide for a Specified Amount that is greater than 7% over the consideration for each Voting Share contained in or proposed to be contained in the Lock-up Bid;

and, for greater certainty, the Lock-up Agreement may contain a right of first refusal or require a period of delay to give the Offeror an opportunity to at least match a higher consideration in another Take-over Bid or transaction or other similar limitation on a Locked-up Person's rights to withdraw Voting Shares from the Lock-up Agreement and not to tender such Voting Shares to the Take-over Bid to which the Locked-up Person has agreed to deposit or tender so long as the limitation does not preclude the exercise by the Locked-up Person of the right to withdraw Voting Shares in sufficient time to tender to the other Take-over Bid or participate in the other transaction; and

- (iv) the agreement does not provide for any break-up fees, top-up fees, penalties, expenses reimbursement or other amounts that exceed in the aggregate the greater of:

- (A) the cash equivalent of 2.5% of the consideration payable under the Take-over Bid to the Locked-up Person; and

- (B) 50% of the amount by which the consideration payable under another Take-over Bid or transaction to a Locked-up Person exceeds the consideration that such Locked-up Person would have received under the Lock-up Bid;

to be paid by a Locked-up Person pursuant to the Lock-up Agreement in the event that the Locked-up Person fails to deposit or tender Voting Shares to the Lock-up Bid or withdraws Voting Shares in order to tender to another Take-over Bid or participate in another transaction;

- (cc) **Market Price** per share of any securities on any date of determination shall mean the average of the daily closing prices per share of such securities (determined as described below) on each of the 20 consecutive Trading Days through and including the Trading Day immediately preceding such date; provided, however, that if an event of a type analogous to any of the events described in Section 2.3 hereof shall have caused the closing prices used to determine the Market Price on any Trading Days not to be fully comparable with

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the closing price on such date of determination or, if the date of determination is not a Trading Day, on the immediately preceding Trading Day, each such closing price so used shall be appropriately adjusted in a manner analogous to the applicable adjustment provided for in Section 2.3 hereof in order to make it fully comparable with the closing price on such date of determination or, if the date of determination is not a Trading Day, on the immediately preceding Trading Day. The closing price per share of any securities on any date shall be:

- (i) the closing board lot sale price or, in case no such sale takes place on such date, the average of the closing bid and asked prices for each of such securities as reported by the principal Canadian stock exchange (as determined by volume of trading) on which such securities are listed or admitted to trading;
- (ii) if for any reason none of such prices is available on such day or the securities are not listed or posted for trading on a Canadian stock exchange, the last sale price or, in case no such sale takes place on such date, the average of the closing bid and asked prices for each of such securities as reported by the principal national United States securities exchange (as determined by volume of trading) on which such securities are listed or admitted to trading;
- (iii) if for any reason none of such prices is available on such day or the securities are not listed or admitted to trading on a Canadian stock exchange or a national United States securities exchange, the last sale price or, in case no sale takes place on such date, the average of the high bid and low asked prices for each of such securities in the over-the-counter market, as quoted by any recognized reporting system then in use; or
- (iv) if for any reason none of such prices is available on such day or the securities are not listed or admitted to trading on a Canadian stock exchange or a national United States securities exchange or quoted by any such reporting system, the average of the closing bid and asked prices as furnished by a recognized professional market maker making a market in the securities;

provided, however, that if for any reason none of such prices is available on such day, the closing price per share of such securities on such date means the fair value per share of such securities on such date as determined by a nationally recognized investment dealer or investment banker; provided further that if an event of a type analogous to any of the events described in Section 2.3 hereof shall have caused any price used to determine the Market Price on any Trading Day not to be fully comparable with the price as so determined on the Trading Day immediately preceding such date of determination, each such price so used shall be appropriately adjusted in a manner analogous to the applicable adjustment provided for in Section 2.3 hereof in order to make it fully comparable with the price on the Trading Day immediately preceding such date of

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determination. The Market Price shall be expressed in Canadian dollars and, if initially determined in respect of any day forming part of the 20 consecutive Trading Day period in question in United States dollars, such amount shall be translated into Canadian dollars on such date at the Canadian Dollar Equivalent thereof;

- (dd) **1934 Exchange Act** means the *Securities Exchange Act of 1934* of the United States, as amended, and the rules and regulations thereunder as now in effect or as the same may from time to time be amended, re-enacted or replaced;
- (ee) **Nominee** shall have the meaning ascribed thereto in Subsection 2.2(c);
- (ff) **Offer to Acquire** shall include:
  - (i) an offer to purchase or a solicitation of an offer to sell Voting Shares; and
  - (ii) an acceptance of an offer to sell Voting Shares, whether or not such offer to sell has been solicited; or any combination thereof, and the Person accepting an offer to sell shall be deemed to be making an Offer to Acquire to the Person that made the offer to sell;
- (gg) **Offeror** shall mean a Person who has announced, and has not withdrawn, an intention to make or who has made, and has not withdrawn, a Take-over Bid, other than a Person who has completed a Permitted Bid, a Competing Permitted Bid or an Exempt Acquisition;
- (hh) **Offeror's Securities** means Voting Shares Beneficially Owned by an Offeror on the date of the Offer to Acquire;
- (ii) **Permitted Bid** means a Take-over Bid made by an Offeror by way of take-over bid circular which also complies with the following additional provisions:
  - (i) the Take-over Bid is made to all holders of Voting Shares as registered on the books of the Corporation, other than the Offeror;
  - (ii) the Take-over Bid contains, and the take-up and payment for securities tendered or deposited is subject to, an irrevocable and unqualified provision that no Voting Shares will be taken up or paid for pursuant to the Take-over Bid (A) prior to the close of business on the date which is not less than 60 days following the date of the Take-over Bid and (B) only if at such date more than 50% of the Voting Shares held by Independent Shareholders shall have been deposited or tendered pursuant to

the Take-over Bid and not withdrawn;

- (iii) unless the Take-over Bid is withdrawn, the Take-over Bid contains an irrevocable and unqualified provision that Voting Shares may be deposited pursuant to such Take-over Bid at any time during the period of time

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described in Clause 1.1(ii)(ii) and that any Voting Shares deposited pursuant to the Take-over Bid may be withdrawn until taken up and paid for; and

- (iv) the Take-over Bid contains an irrevocable and unqualified provision that in the event that the deposit condition set forth in Clause 1.1(ii)(ii) is satisfied the Offeror will make a public announcement of that fact and the Take-over Bid will remain open for deposits and tenders of Voting Shares for not less than ten Business Days from the date of such public announcement;
- (jj) **Permitted Bid Acquisition** shall mean an acquisition of Voting Shares made pursuant to a Permitted Bid or a Competing Permitted Bid;
- (kk) **Person** shall include any individual, firm, partnership, association, trust, trustee, executor, administrator, legal personal representative, body corporate, corporation, unincorporated organization, syndicate, a government and its agencies or instrumentalities and any entity or group whether or not having legal personality;
- (ll) **Pro Rata Acquisition** means an acquisition by a Person of Voting Shares pursuant to:
  - (i) a Dividend Reinvestment Acquisition;
  - (ii) a stock dividend, stock split or other event in respect of securities of the Corporation of one or more particular classes or series pursuant to which such Person becomes the Beneficial Owner of Voting Shares on the same pro rata basis as all other holders of securities of the particular class, classes or series;
  - (iii) the acquisition or the exercise by the Person of only those rights to purchase Voting Shares distributed to that Person in the course of a distribution to all holders of securities of the Corporation of one or more particular classes or series pursuant to a rights offering or pursuant to a prospectus, provided that the Person does not thereby acquire a greater percentage of such Voting Shares or securities convertible into or exchangeable for Voting Shares so offered than the Person's percentage of Voting Shares Beneficially Owned immediately prior to such acquisition; or
  - (iv) a distribution of Voting Shares, or securities convertible into or exchangeable for Voting Shares (and the conversion or exchange of such convertible or exchangeable securities), made pursuant to a prospectus or by way of a private placement or securities exchange take-over bid, provided that the Person does not thereby acquire a greater percentage of such Voting Shares, or securities convertible into or exchangeable for Voting Shares, so offered than the Person's percentage of Voting Shares Beneficially Owned immediately prior to such acquisition;



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- (mm) **Record Time** has the meaning set forth in the second whereas clause;
  
- (nn) **Right** means a right to purchase a Common Share of the Corporation upon the terms and subject to the conditions set forth in this Agreement;
  
- (oo) **Rights Certificate** means the certificates representing the Rights after the Separation Time, which shall be substantially in the form attached hereto as Attachment 1;
  
- (pp) **Rights Holders Special Meeting** means a meeting of the holders of Rights called by the Board of Directors for the purpose of approving a supplement or amendment to this Agreement pursuant to Subsection 5.4(c);
  
- (qq) **Rights Register** shall have the meaning ascribed thereto in Subsection 2.6(a);
  
- (rr) **Securities Act (Alberta)** shall mean the *Securities Act*, S.A. 1991, c.S-6.1, as amended, and the regulations thereunder, and any comparable or successor laws or regulations thereto;
  
- (ss) **Separation Time** shall mean the close of business on the eighth Trading Day after the earlier of:
  - (i) the Stock Acquisition Date;
  
  - (ii) the date of the commencement of or first public announcement of the intent of any Person (other than the Corporation or any Subsidiary of the Corporation) to commence a Take-over Bid (other than a Permitted Bid or a Competing Permitted Bid), or such later time as may be determined by the Board of Directors, provided that, if any Take-over Bid referred to in this Clause (ii) expires, is cancelled, terminated or otherwise withdrawn prior to the Separation Time, such Take-over Bid shall be deemed, for the purposes of this definition, never to have been made; and
  
  - (iii) the date on which a Permitted Bid or Competing Permitted Bid ceases to be such;
  
- (tt) **Special Meeting** means a special meeting of the holders of Voting Shares, called by the Board of Directors for the purpose of approving a supplement or amendment to this Agreement pursuant to Subsection 5.4(b);
  
- (uu) **Stock Acquisition Date** shall mean the first date of public announcement (which, for purposes of this definition, shall include, without limitation, a report filed pursuant to Part 5 of Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids* or Section 13(d) of the 1934 *Exchange Act*) by the Corporation or

an Acquiring Person that an Acquiring Person has become such;

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(vv) **Subsidiary** : a corporation is a Subsidiary of another corporation if:

(i) it is controlled by:

A. that other; or

B. that other and one or more corporations each of which is controlled by that other; or

C. two or more corporations each of which is controlled by that other; or

(ii) it is a Subsidiary of a corporation that is that other's Subsidiary;

(ww) **Take-over Bid** shall mean an Offer to Acquire Voting Shares, or securities convertible into Voting Shares if, assuming that the Voting Shares or convertible securities subject to the Offer to Acquire are acquired and are Beneficially Owned at the date of such Offer to Acquire by the Person making such Offer to Acquire, such Voting Shares (including Voting Shares that may be acquired upon conversion of securities convertible into Voting Shares) together with the Offeror's Securities, constitute in the aggregate 20% or more of the outstanding Voting Shares at the date of the Offer to Acquire;