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Court File No.: CV-19-614614-00CL

**IMERYS TALC AMERICA, INC., IMERYS TALC VERMONT, INC.  
AND IMERYS TALC CANADA INC.**

**EIGHTH REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS INFORMATION OFFICER**

**October 31, 2020**

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF IMERYYS TALC AMERICA, INC., IMERYYS TALC VERMONT, INC. AND  
IMERYYS TALC CANADA INC.**

**APPLICATION OF IMERYYS TALC CANADA INC., UNDER SECTION 46 OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**EIGHTH REPORT OF THE INFORMATION OFFICER  
RICHTER ADVISORY GROUP INC.**

**OCTOBER 31, 2020**

## I. INTRODUCTION

1. On February 13, 2019 (the “**Petition Date**”), Imerys Talc America, Inc. (“**ITA**”), Imerys Talc Vermont, Inc. (“**ITV**”) and Imerys Talc Canada Inc. (“**ITC**” and together with ITA and ITV, the “**Debtors**”), commenced voluntary reorganization proceedings (the “**Chapter 11 Proceedings**”) in the United States Bankruptcy Court for the District of Delaware (the “**US Court**”) by each filing a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “**Bankruptcy Code**”).
2. Also on the Petition Date, the Debtors filed various motions for interim and/or final orders (the orders entered by the US Court in respect thereof, the “**First Day Orders**”) in the Chapter 11 Proceedings to permit the Debtors to advance their reorganization. The First Day Orders included an order authorizing ITC to act as the foreign representative (in such capacity, the “**Foreign Representative**”) of the Debtors for the within proceedings (the “**Foreign Representative Order**”).
3. On February 14, 2019, the US Court granted the Foreign Representative Order and other First Day Orders.
4. On February 15, 2019, ITC, in its capacity as Foreign Representative, commenced an application before the Ontario Superior Court of Justice (Commercial List) (the “**Canadian Court**”) pursuant to Part IV of the *Companies’ Creditors Arrangement Act* (R.S.C. 1985, c. C-36, as amended) (the “**CCAA**”).
5. On February 20, 2019, the Canadian Court granted an initial recognition order, *inter alia*: (i) declaring that ITC is a “foreign representative” as defined in section 45 of the CCAA; (ii) declaring that the Chapter 11 Proceedings are recognized as a “foreign main proceeding” under the CCAA; and (iii) granting a stay of proceedings against the Debtors in Canada. The Debtors’ proceedings under the CCAA are referred to herein as the “**Recognition Proceedings**”.
6. Also on February 20, 2019, the Canadian Court granted a supplemental order (the “**Supplemental Order**”), pursuant to section 49 of the CCAA, *inter alia*: (i) recognizing and giving full force and effect in Canada to certain of the First Day Orders; (ii) appointing Richter Advisory Group Inc. (“**Richter**”) as the information officer (the “**Information Officer**”) in respect of these proceedings; (iii) staying any proceedings, rights or remedies against or in respect of the Debtors, the business and property of the Debtors, the directors and officers of the Debtors in Canada, and the Information Officer; (iv) restraining the right of any person or entity to, among other things, discontinue or terminate any supply of products or services required by the Debtors in Canada; and (v) granting a super-priority charge over the Debtors’ property in Canada in favour of the Information Officer and its counsel, as security for their professional fees and disbursements incurred in respect of these proceedings, up to a maximum amount of \$200,000.

7. On March 19, 2019 and March 22, 2019, the US Court entered various orders (the “**March 19 & 22 Entered Orders**”) sought by the Debtors at their “second day hearing”, including but not limited to:
  - (a) a final Order Authorizing Payment of Certain Prepetition Workforce Obligations, Including Compensation, Expense Reimbursements, Benefits, and Related Obligations, (II) Confirming Right to Continue Workforce Programs on Postpetition Basis, (III) Authorizing Payment of Withholding and Payroll-Related Taxes, (IV) Authorizing Payment of Prepetition Claims Owing to Administrators of, or Third Party Providers Under, Workforce Programs, and (V) Authorizing Banks to Honor Prepetition Checks and Fund Transfers for Authorized Payments (the “**Final Wages Order**”);
  - (b) an Order Authorizing the Employment and Retention of KCIC, LLC (“**KCIC**”) as Insurance and Valuation Consultant, Nunc Pro Tunc to the Petition Date (the “**KCIC Retention Order**”);
  - (c) an Order Authorizing the Debtors to Employ and Retain Richards, Layton & Finger, P.A. (“**RL&F**”) as Co-Counsel to the Debtors, Nunc Pro Tunc to the Petition Date (the “**RL&F Retention Order**”);
  - (d) an Order Authorizing Employment and Retention of Stikeman Elliott LLP (“**Stikeman**”) as Canadian Counsel, Nunc Pro Tunc to the Petition Date (the “**Stikeman Retention Order**”); and
  - (e) an Order Authorizing the Employment and Retention of Prime Clerk LLC (“**Prime Clerk**”) as Administrative Advisor nunc pro tunc to the Petition Date (the “**Administrative Advisor Order**”).
8. On March 25, 2019, the US Court entered an Order Establishing Procedures for Interim Compensation and Reimbursement of Professionals (the “**Interim Compensation & Reimbursement Order**”).
9. On March 26, 2019, the US Court entered an Order Authorizing Debtors to (I) Pay Their Prepetition Insurance Obligations, (II) Pay Their Prepetition Bonding Obligations, (III) Maintain Their Postpetition Insurance Coverage, and (IV) Maintain Their Bonding Program (the “**Final Insurance and Bonding Order**”, and together with the March 19 & 22 Entered Orders and the Interim Compensation & Reimbursement Order, the “**Second Day Orders**”).
10. On April 1, 2019, the US Court entered an Order Authorizing the Employment and Retention of Alvarez & Marsal North America, LLC (“**A&M**”) as the Debtors’ financial advisor *nunc pro tunc* to the Petition Date (the “**A&M Retention Order**”).
11. On April 2, 2019, the US Court entered an Order Authorizing the Employment and Retention of Latham & Watkins LLP as the Debtors’ bankruptcy co-counsel *nunc pro tunc* to the Petition Date (the “**L&W Retention Order**”).

12. On April 3, 2019, the Canadian Court granted an order which recognized and gave full force and effect in Canada to certain of the Second Day Orders, including the Final Wages Order, the KCIC Retention Order, the RL&F Retention Order, the Stikeman Retention Order and the Administrative Advisor Order.
13. On April 4, 2019, the US Court entered an Order Authorizing the Employment and Retention of Neal, Gerber, & Eisenberg LLP ("**NGE**") as the Debtors' special insurance coverage and indemnification counsel *nunc pro tunc* to the Petition Date (the "**NGE Retention Order**").
14. On April 24, 2019, the US Court entered a final Order (I) Authorizing Continued Use of Existing Cash Management System, Including Maintenance of Existing Bank Accounts, Check, and Business Forms, (II) Authorizing Continuation of Existing Deposit Practices, (III) Approving the Continuation of Intercompany Transactions, and (IV) Granting Superpriority Administrative Expense Status to Certain Postpetition Intercompany Claims (the "**Final Cash Management Order**").
15. On May 21, the US Court entered Orders:
  - (a) Authorizing the Employment and Retention of Willkie Farr & Gallagher LLP as special litigation and corporate counsel to the Official Committee of Tort Claimants (the "**Committee**" or the "**TCC**") (the "**Willkie Farr & Gallagher Order**"); and
  - (b) Authorizing the Employment and Retention of Robinson & Cole LLP as counsel to the Committee (the "**Robinson & Cole Order**").
16. On May 22, 2019 and June 25, 2019, respectively, the US Court entered Orders Appointing M. Jacob Renick of M.J Renick & Associates LLC as Fee Examiner and Establishing Related Procedures for the Review of Applications of Retained Professionals (collectively, the "**Fee Examiner Orders**").
17. On May 24, 2019, the Canadian Court granted an order which recognized and gave full force and effect in Canada to the A&M Retention Order, the L&W Retention Order, the NGE Retention Order and the Final Cash Management Order.
18. On June 3, 2019, the US Court entered an order appointing James L. Patton, Jr. as legal representative for future talc personal injury claimants (the "**FCR**") *nunc pro tunc* to the Petition Date (the "**FCR Order**").
19. On June 6, 2019, the US Court entered Orders:
  - (a) Authorizing the Employment and Retention of Young, Conaway, Stargatt & Taylor LLP as attorneys for the FCR *nunc pro tunc* to the Petition Date (the "**Young Conaway Order**"); and

- (b) Authorizing the Employment and Retention of Gilbert LLP ("**Gilbert**") as special insurance counsel to the Committee (the "**Gilbert Order**").
20. On June 12, 2019, the US Court entered an Order Authorizing the Employment and Retention of Ankura Consulting Group, LLC as claims evaluation and financial valuation consultants for the FCR *nunc pro tunc* to the Petition Date (the "**Ankura Order**").
21. On June 25, 2019, the US Court entered an Order Authorizing the Employment and Retention of Legal Analysis Systems, Inc. as tort liability consultant to the Committee (the "**Legal Analysis Systems Order**").
22. On July 25, 2019, the US Court entered an Order (I) Establishing Bar Dates and Related Procedures for Filing Proofs of Claim Other than With Respect to Talc Personal Injury Claims and (II) Approving Form and Manner of Notice Thereof (the "**Bar Date Order**").
23. On August 7, 2019, the US Court entered Orders:
- (a) Authorizing the Employment and Retention of Ducera Partners LLC and Ducera Securities LLC (collectively, "**Ducera**") as investment banker for the Committee (the "**Ducera Order**"); and
- (b) Authorizing the Employment and Retention of GlassRatner Advisory & Capital Group, LLC as financial advisor to the Committee (the "**GlassRatner Order**", and together with the Willkie Farr & Gallagher Order, the Robinson & Cole Order, the Gilbert Order, the Legal Analysis Systems Order and the Ducera Order, the "**Committee Professional Advisors Retention Orders**").
24. Also on August 7, 2019, the Canadian Court granted an order which recognized and gave full force and effect in Canada to the Bar Date Order and the Fee Examiner Orders.
25. On August 16, 2019, the US Court entered an Order (A) Authorizing the Debtors to Assume Certain Unexpired Leases of Nonresidential Real Property and (B) Granting Related Relief (the "**Assumption of Leases Order**").
26. On September 26, 2019, the US Court entered an Order Authorizing the Co-Retention of Ducera as investment banker for the Committee and the FCR (the "**Ducera Co-Retention Order**").
27. On September 27, 2019, the US Court entered an Order Authorizing the Co-Retention of Gilbert as special insurance counsel for the FCR and the Committee (the "**Gilbert Co-Retention Order**", and together with the Young Conaway Order, the Ankura Order and the Ducera Co-Retention Order, the "**FCR Professional Advisors Retention Orders**"). Also on September 27, 2019, the US Court entered an Order Approving the Stipulated

- Protective Order (the “**Stipulated Protective Order**”), which would govern the disclosure of information and documents, including testimony and transcripts, in connection with the Chapter 11 Proceedings.
28. On October 28, 2019, the Canadian Court granted an order which recognized and gave full force and effect in Canada to the FCR Order, the FCR Professional Advisors Retention Orders, the Committee Professional Advisors Retention Orders, the Assumption of Leases Order, and the Stipulated Protective Order.
  29. On November 22, 2019, the US Court entered an Order (I) Authorizing Implementation of a Key Employee Retention Program, (II) Approving the Terms of the Debtors’ Key Employee Retention Program, and (III) Granting Related Relief (the “**KERP Order**”).
  30. On November 22, 2019, the US Court also entered an Order (I) Establishing a Bar Date for Indirect Talc Claims and Related Procedures for Filing Proofs of Claim for Indirect Talc Claims and (II) Approving Form and Manner of Notice Thereof (the “**Indirect Talc Claims Bar Date Order**”).
  31. On December 3, 2019, the Canadian Court granted an order which recognized and gave full force and effect in Canada to the KERP Order and Indirect Talc Claims Bar Date Order.
  32. On February 25, 2020, the US Court entered an Order (I) Authorizing Employment and Retention of PJT Partners LLP as Investment Banker *Nunc Pro Tunc* to November 7, 2019 and (II) Waiving Certain Informational Requirements In Connection Therewith (the “**PJT Retention Order**”).
  33. On March 9, 2020, the US Court granted an order (the “**Non-Debtor Professional Fee Stipulation Order**”) approving a stipulation and agreement permitting ITC to make payments to ITA for the fees and expenses of professionals retained by the Committee and the fees and expenses of professionals retained by the FCR.
  34. On April 1, 2020, the Canadian Court granted an order which recognized and gave full force and effect in Canada to the Non-Debtor Professional Fee Stipulation Order.
  35. On June 30, 2020, the US Court entered Orders (I)(A) Establishing Bidding Procedures, Assumption and Assignment Procedures, and Stalking Horse Procedures for Sale of Substantially All Assets, (B) Scheduling Auction and Sale Hearing, and (C) Approving Form and Manner of Notice Thereof, (II) Approving Sale of Substantially All Assets Free and Clear of Liens, Claims, Encumbrances, and Other Interests, (III) Authorizing Assumption and Assignment of Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief (the “**Bidding Procedures Order**”).



36. On July 3, 2020, the Canadian Court granted an order which recognized and gave full force and effect in Canada to the Bidding Procedures Order and the PJT Retention Order.
37. The primary purpose of the Chapter 11 Proceedings is to confirm a plan of reorganization pursuant to the Bankruptcy Code that channels all present and future talc personal injury claims (the “**Talc Personal Injury Claims**”) against the Debtors to a trust so that the Debtors can emerge from these restructuring proceedings free of historic talc-related liabilities.
38. Richter, in its capacities as Proposed Information Officer and Information Officer, has previously provided the Canadian Court with seven reports (the “**Prior Reports**”). The Prior Reports, copies of the orders granted by the Canadian Court and other material documents pertaining to the Recognition Proceedings are available on the Information Officer’s website at <http://www.richter.ca/insolvencycase/imerys-talc-canada-inc>. As well, there is a link on the Information Officer’s website to the Debtors’ restructuring website maintained by Prime Clerk, which includes copies of the US Court materials and orders, notices and additional information in respect of the Chapter 11 Proceedings.

## II. PURPOSE OF REPORT

39. The purpose of this eighth report (the “**Eighth Report**”) of the Information Officer is to provide the Canadian Court with information concerning:
  - (a) the motion of the Foreign Representative returnable November 3, 2020 for recognition in Canada of the Stalking Horse Order, the Ramboll Retention Order, the AIP Orders, and the Revised KEIP Order (each as hereinafter defined);
  - (b) an update on other matters relating to the Chapter 11 Proceedings;
  - (c) an update on matters relating to ITC; and
  - (d) the activities of the Information Officer since the seventh report (the “**Seventh Report**”) dated June 30, 2020.

## III. TERMS OF REFERENCE

40. In preparing this Eighth Report, the Information Officer has relied solely on information and documents provided by the Debtors and their advisors, including unaudited financial information, declarations and affidavits of the Debtors’ executives and other information provided in the Chapter 11 Proceedings (collectively, the “**Information**”). In accordance with industry practice, except as otherwise described in the Eighth Report, Richter

has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, Richter has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Auditing Standards (“GAAS”) pursuant to the *Chartered Professional Accountant of Canada Handbook* and, as such, Richter expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.

41. Unless otherwise stated, all monetary amounts contained herein are expressed in United States dollars.
42. Capitalized terms not otherwise defined herein are as defined in the motion materials, including the affidavit of Anthony Wilson, Treasurer and Director of Finance, sworn on October 29, 2020 (the “**October 29 Wilson Affidavit**”) and filed in support of the Foreign Representative’s motion. This Eighth Report should be read in conjunction with the October 29 Wilson Affidavit, as certain information contained in the October 29 Wilson Affidavit has not been included herein in order to avoid unnecessary duplication.

#### **IV. ORDERS OF THE US COURT FOR WHICH RECOGNITION IS SOUGHT**

##### **Stalking Horse Order**

43. On June 30, 2020, the US Court entered the Bidding Procedures Order, which, among other things, authorized the Debtors to exercise their business judgement, in consultation with the Consultation Parties (as defined in the Bidding Procedures Order), and with the consent of the TCC and the FCR, to (i) select and designate one or more Potential Bidders (as defined in the Bidding Procedures Order) to act as a stalking horse bidder for substantially all of the Debtors’ assets, (ii) negotiate the terms of, and enter into a stalking horse agreement, (iii) agree to certain bid protections for the benefit of such stalking horse bidder, subject to approval of the US Court following prior notice and an opportunity to object, and (iv) schedule an auction for the Debtors’ assets.
44. On October 13, 2020, the Debtors filed a notice (the “**Stalking Horse Notice**”) that, in accordance with the Bidding Procedures Order, designated Magris Resources Canada Inc. (“**Magris Resources**” or the “**Stalking Horse Bidder**”) as the Stalking Horse Bidder and the bid (the “**Stalking Horse Bid**”) submitted by Magris Resources as the Stalking Horse Bid. The Stalking Horse Notice also noted that the Debtors had executed an asset purchase agreement (the “**Stalking Horse Agreement**”) dated October 13, 2020 pursuant to which Magris Resources would acquire substantially all of the Debtors’ assets pursuant to section 363 of the Bankruptcy Code, subject to higher or otherwise better offers. The purchase price payable to the Debtors under the Stalking Horse Agreement (the “**Purchase Price**”) consists of (i) \$223,000,000 in cash consideration, and (ii) the assumption of the Assumed Liabilities (as defined in the Stalking Horse Agreement).

45. Pursuant to the Stalking Horse Agreement, and in accordance with the Bidding Procedures Order, the Debtors agreed to provide Magris Resources with the following bid protections, subject to approval by the US Court:
- (a) upon consummation of an Alternative Transaction (as defined in the Stalking Horse Agreement) by any Debtor, Magris Resources will be entitled to payment, which will have administrative expense priority, of (i) break-up fee of \$3,345,000 (1.5% of the cash consideration of the Purchase Price) and (ii) a reimbursement, not to exceed \$500,000, for reasonable and documented out-of-pocket costs and expenses incurred by Magris Resources in connection with the transactions contemplated by the Stalking Horse Agreement; and
  - (b) an initial minimum overbid amount of \$100,000.
46. The Debtors, with the reasonable consent of the TCC and the FCR, have determined a revised list of the remaining key dates for the Sale Process (as hereinafter defined) (the “**Modified Deadlines**”), each of which may be subject to further modification by the Debtors with the reasonable consent of the TCC and the FCR:

<b>Date</b>	<b>Activity</b>
November 2, 2020 at 4:00 pm (EST)	Sale Objection Deadline
November 10, 2020 at 4:00 pm (EST)	Bid Deadline
November 12, 2020 at 10:00 am (EST)	Auction (if necessary)
November 16, 2020 at 10:00 am (EST)	Sale Hearing
On or before November 30, 2020	Order in Canadian Proceeding to recognize the Sale Order

47. Pursuant to the Stalking Horse Notice, objections to the proposed Stalking Horse Order (as hereinafter defined) were to be filed and served by no later than October 27, 2020. The Debtors received no objection and on October 29, 2020, the US Court entered an Order (I) Approving the Debtors’ Designation of Magris Resources Canada Inc. as Stalking Horse Bidder and Related Bid Protections and (II) Granting Related Relief (the “**Stalking Horse Order**”). The recognition of the Stalking Horse Order in Canada is appropriate as the Stalking Horse Agreement includes the sale of substantially all the Debtors’ assets, including the property of ITC.

#### **Ramboll Retention Order**

48. On July 23, 2020, the US Court entered an Order authorizing the employment and retention of Ramboll US Corporation (“**Ramboll**”) as Environmental Advisor *nunc pro tunc* to June 25, 2020 (the “**Ramboll Retention Order**”).

49. In order to run an effective Sale Process, potential buyers must understand the Debtors' environmental risk profile, including potential contamination concerns, closure costs, and environmental compliance costs.
50. Ramboll has substantial experience in providing environmental management and advisory services for companies in complex situations. Ramboll is a recognized leader in assessing environmental issues for companies and has performed thousands of environmental assessments of industrial properties, commercial and residential developments, and hazardous waste sites. In particular, Ramboll has provided services to companies in various Chapter 11 cases, including companies that have operated mining assets.
51. Pursuant to the engagement letter between Ramboll and the Debtors, dated June 24, 2020, Ramboll will be paid by the Debtors for the services at their customary hourly billing rates and in a manner that is consistent with the Debtors' other professionals. Ramboll will also seek reimbursement for all expenses incurred in connection with its provision of services in the Chapter 11 Proceedings.
52. The recognition of the Ramboll Retention Order in Canada is appropriate as Ramboll will be performing environmental assessments of the Debtors' properties, including ITC properties, and their services are essential to the sale of the Debtors' assets.

#### **AIP Orders**

53. On March 19, 2019, the Final Wages Order was entered by the US Court, which order was recognized by the Canadian Court on April 3, 2019. The Final Wages Order provides for the continuation of the Employee Incentive Programs, including the Annual Incentive Plan ("**AIP**"), with respect to "non-insider" employees of the Debtors but requires further US Court approval before any payments are made to "insiders" thereunder.
54. The AIP was implemented by the Debtors in 2012 following their acquisition by the Imerys group in 2011, and has been periodically revised to ensure alignment with the Debtors' business-wide objectives. Prior to the Petition Date, the Debtors made adjustments to the financial metrics utilized to calculate bonuses under the AIP for the 2019 year in order to maximize incentives in light of organizational changes and the Debtors' goals in connection with the impending bankruptcy filings. The structure of the AIP for 2020 remains the same as the 2019 AIP, with the exception of the applicable budgets in connection with the Finance Component (as hereinafter defined), which have been updated for the 2020 fiscal year.
55. Bonuses under the AIP measure overall performance in the fiscal year based on the following weighted objectives: (i) the Debtors' financial objectives, representing 60% of an eligible employee's AIP bonus (the "**Finance Component**") and (ii) safety objectives and the individual employee's personal performance objectives, representing 40% of an eligible employee's AIP bonus (the "**Personal Component**"). Each employee has a

maximum bonus that they can achieve under the AIP based on a designated percentage of such employee's base salary.

56. Bonuses under the Finance Component of the AIP are paid semi-annually based on the Debtors' actual results as compared to the corresponding budgets approved by each Debtors' respective board of directors, with mid-year bonus payments (the "**Mid-Year Bonus Payment**") measuring performance under the Finance Component for the first six months of the year, and year-end bonus payments measuring performance for the full year on a cumulative basis. For the avoidance of doubt, the Mid-Year Bonus Payment does not seek to pay any amounts earned under the Personal Component as such amounts are calculated in connection with an eligible employee's year-end bonus payments.
57. On April 9, 2020, the US Court entered into the Order Approving Ordinary Course Year-End Bonus Payments for Certain Employees Under Sections 105(1), 363, and 503 of the Bankruptcy Code (the "**Year-End AIP Order**") and on September 21, 2020, the US Court entered the Order Approving Ordinary Course Mid-Year Bonus Payment Under Sections 105(a), 363, and 503 of the Bankruptcy Code (the "**Mid-Year AIP Order**", and together with the Year-End AIP Order, the "**AIP Orders**").
58. The Year-End AIP Order approves year-end bonus payments under the 2019 AIP (the "**2019 Year-End Bonus Payments**") for two insiders (the "**2019 Eligible Employees**"). The 2019 Eligible Employees include (i) the General Manager of Talc North America, who also serves as a member of the board of directors and President of each of the Debtors (the "**President**") and (ii) the Director of Finance Talc America, who also serves as Treasurer of each of the Debtors (the "**Treasurer**"). The Information Officer understands that the 2019 Eligible Employees are also the KEIP Participants, as defined hereafter. In light of the KEIP, the KEIP Participants will not be eligible to participate in the 2020 AIP.
59. Under the 2019 AIP, the 2019 Eligible Employees received 2019 Year-End Bonus Payments in the amount of \$101,877 for the President and \$54,094 for the Treasurer. No amount was allocated to ITC for the 2019 Year-End Bonus Payments.
60. The Mid-Year AIP Order approves mid-year bonus payments under the 2020 AIP (the "**2020 Mid-Year Bonus Payment**") for one insider, the Director of Operations of ITC, who was appointed to ITC's board of directors in March 2020 (the "**2020 Eligible Employee**"). Under the 2020 AIP, the Eligible Employee is eligible to receive a 2020 Mid-Year Bonus Payment in the amount of \$10,962.70 Canadian dollars. The Information Officer understands that ITC will pay the entirety of the 2020 Mid-Year Bonus Payment.

61. The recognition of the AIP Orders in Canada is appropriate as the 2019 Eligible Employees perform services that benefit ITC and the 2020 Eligible Employee is employed by ITC.

#### **Revised KEIP Order**

62. On November 1, 2019, the Debtors filed a motion to (i) authorize the implementation of a key employee incentive program (the “**Original KEIP**”) and a key employee retention program (the “**KERP**”), (ii) approving the terms of the Debtors’ proposed KEIP and KERP, and (iii) granting related relief (the “**Original KEIP & KERP Motion**”).
63. On November 18, 2019, the United States Trustee for the District of Delaware (the “**UST**”) filed an objection to the Original KEIP (the “**UST KEIP Objection**”) on the grounds that the Original KEIP did not properly incentivize the participants. In light of the UST KEIP Objection, the Debtors ultimately adjourned the hearing on the KEIP portion of the Original KEIP & KERP Motion and postponed seeking approval of the Original KEIP. On November 22, 2019, the Court entered the KERP Order.
64. On May 18, 2020, the Debtors filed a supplement to the Original KEIP & KERP Motion setting forth certain modifications to the Original KEIP (the “**Revised KEIP**”) and on May 28, 2020, the Debtors filed a third supplemental declaration in support of the Revised KEIP. Subsequently, the UST filed a response stating that the Revised KEIP resolved the issues raised in the UST KEIP Objection.
65. The Original KEIP was developed in connection with the then-current status of the Chapter 11 Proceedings, which focused on incentivizing employees to maximize the value of the estates and to confirm a plan of reorganization. Given the entry of the Bidding Procedures Order, the Debtors have been largely focused on the sale and marketing of their assets (the “**Sale Process**”) over the last several months. Pending completion of a sale, and to maximize the value of their going concern business, the Debtors are of the view that KEIP Participants (as hereinafter defined) are appropriately incentivized in order to achieve this goal. Accordingly, the Debtors revised the Original KEIP to provide more challenging metrics to better align with the Sale Process.
66. The Information Officer notes that in developing the KEIP, the Debtors, in consultation with their financial advisor, A&M, took into consideration the Debtors’ existing compensation packages, including the existing bonus policy applicable to the KEIP Participants and the Debtors’ AIP. For the avoidance of doubt, the KEIP Participants will not be eligible to separately receive bonuses under the 2020 AIP.
67. The Revised KEIP is designed to incentivize key employees (the “**KEIP Participants**”) who have institutional knowledge and skills that are essential to the Debtors’ efforts to maximize value in the Chapter 11 Proceedings. In addition to their day-to-day responsibilities, the KEIP Participants will steer the Sale Process and marketing of the Debtors’ assets. As such, the success of the Sale Process will be significantly impacted by their efforts.

68. There are two KEIP Participants: (a) the President and (b) the Treasurer, both of whom have been directly involved in the Sale Process assisting with, among other things, developing sale and marketing materials for distribution to interested parties, responding to diligence inquiries, engaging in discussions and negotiations with PJT, participating in in-person site tours and management presentations with potential bidders, and communicating with the Debtors' creditors, employees, customers, trade vendors, and other business partners regarding the Sale Process and the implications thereof.
69. The Revised KEIP Order modifies the Original KEIP by replacing the restructuring milestones with a sliding-scale incentive payment tied to the net proceeds of a sale (the "**Sale Component**"), as well as certain operation goals with incentive payments that are identical to the bonuses each KEIP Participant would receive under the Debtors' existing AIP for 2020 (the "**AIP Component**").
70. The Sale Component is based on a percentage of net proceeds received in connection with a sale of the Debtors' assets (the "**Sale Proceeds**"). In order to be eligible to receive any payment with respect to the Sale Component, Sale Proceeds must exceed \$30 million. If the Sale Proceeds exceed \$30 million, the KEIP Participants will be eligible for incentive payments calculated based on a percentage of the Sale Proceeds that incrementally increases with higher Sale Process values, as outlined below:

Performance Level	Sales Proceeds	Payout (% of Incremental Proceeds)
Below Threshold	\$30 million or less	0%
Level 1	>\$30 million - \$50 million	0.1% above \$30 million
Level 2	>\$50 million - \$70 million	0.2% above \$50 million
Level 3	>\$70 million to \$90 million	0.3% above \$70 million
Level 4	>\$90 million to \$110 million	0.4% above \$90 million
Level 5	>\$110 million to \$130 million	0.5% above \$110 million
Level 6	>\$130 million to \$150 million	0.6% above \$130 million
Level 7	>\$150 million	0.7% above \$150 million

71. As noted in the table above, payouts in respect of the Sale Component are uncapped in order to motivate the KEIP Participants to achieve the maximum sale value possible, and will be allocated pro-rata based on each KEIP Participant's base salary.
72. The AIP Component will measure overall annual performance based on the aforementioned objectives, namely the Finance Component and the Personal Component as described above. Payments made to KEIP Participants on account of financial performance under the AIP Component will be made semi-annually. The maximum incentive payments under the AIP Component equal to 50% (with respect to the Treasurer) and 70% (with respect to the President) of their respective base salaries.

73. The maximum amount payable under the AIP Component of the KEIP would be \$267,367. If the Stalking Horse Bid with Magris Resources is consummated, the maximum amount payable under the Sale Component of the KEIP would be \$931,000. As such, and again, assuming the consummation of the Stalking Horse Bid, bonuses totaling approximately \$1,193,3367 may be payable under the KEIP to the KEIP Participants, of which approximately \$229,408 would be allocated to ITC as stated in the October 29 Wilson Affidavit. This allocation is based on (i) the quantity of talc produced by ITC as compared to the quantity of talc produced by the Debtors' operations on a consolidated basis (for the President) and (ii) ITC's sales as a percentage of the Debtors' total sales (for the Treasurer). However, as further noted in the October 29 Wilson Affidavit, the actual allocation of the amount payable by ITC in respect of the KEIP will not be known and finalized until a later date.
74. On June 1, 2020, the US Court entered the Revised KEIP Order. The recognition of the Revised KEIP Order in Canada is appropriate as the Revised KEIP Order provides the necessary incentives to the KEIP Participants to promote the Debtors' goal of maximizing the value of their assets, including the assets of ITC, as part of the Sale Process. The terms of the KEIP appear reasonable in the circumstances and consistent with market practice in insolvency proceedings.

## **V. UPDATE ON CERTAIN OTHER MATTERS IN THE CHAPTER 11 PROCEEDINGS**

75. The October 29 Wilson Affidavit includes an update on the material orders that have been entered in the Chapter 11 Proceedings since the Seventh Report, as well as an update on the status of the claims process, the Sale Process and the Debtors' efforts in arranging potential debtor-in-possession financing. The Information Officer will report further to the Canadian Court in respect of these matters should the Foreign Representative seek recognition by the Canadian Court of any of the orders entered by the US Court.

### **The Third Amended Plan and Third Amended Disclosure Statement**

76. Subsequent to filing of the Plan and Disclosure Statement on May 15, 2020 (the "**Original Plan**"), the Debtors filed the First Amended Plan, the Second Amended Plan, and the Third Amended Plan August 12, 2020, October 5, 2020 and October 16, 2020 respectively. The Debtors also filed the First Amended Disclosure Statement, the Second Amended Disclosure Statement and the Third Amended Disclosure Statement on the same dates.
77. In light of the Modified Deadlines and the Third Amended Plan, the Information Officer understands the Debtors are targeting to consummate the Third Amended Plan and the transactions contemplated thereby by March 2021. The US Court hearing to approve the Third Amended Disclosure Statement has been scheduled for November 16, 2020 at 10:00 am EST.



78. Based on the cashflow forecast provided to the Information Officer by the Debtors on October 21, 2020, ITC is projected to have sufficient liquidity through to at least April 2021.

## **VI. UPDATE ON CERTAIN MATTERS RELATING TO IMERYS TALC CANADA INC.**

### **Cash Flows**

79. Subsequent to the granting of the Supplemental Order, the Debtors have provided reporting to the Information Officer with respect to the cash flows of ITC. For the 18-week period from June 20, 2020 to October 23, 2020, ITC had total cash receipts of approximately \$9.9 million (as compared to forecast cash receipts of \$6.2 million) and total cash disbursements of \$11.9 million, including \$3.7 million paid to ITA as reimbursement of fees and expenses relating to professionals retained by the Debtors and the Non-Debtor Professional Fee Stipulation Order (as compared to forecast cash disbursements of \$18.5 million, including \$6.9 million paid to ITA), for a net cash outflow of \$2.0 million (as compared to forecast net cash outflow of \$12.3 million) over the period.
80. As at October 23, 2020, the Information Officer understands that ITC had approximately \$6.3 million of cash on hand, which includes balances held in ITC's accounts at SunTrust Bank pursuant to the Final Cash Management Order.

## **VII. ACTIVITIES OF THE INFORMATION OFFICER**

81. The activities of the Information Officer since the Seventh Report include:
- (a) responding to creditor inquiries regarding the Chapter 11 Proceedings and the Recognition Proceedings;
  - (b) communicating with the Debtors' advisors and the Information Officer's counsel regarding the status of matters related to the Chapter 11 Proceedings, including the Stalking Horse selection, and the Recognition Proceedings;
  - (c) reviewing materials filed by various parties in the Chapter 11 Proceedings in connection with the Stalking Horse Order, the Ramboll Retention Order, the Revised KEIP Order, and the AIP Orders;
  - (d) reviewing ITC's cash flow reporting and corresponding with A&M on same;
  - (e) attending before the Canadian Court for recognition of the Bidding Procedures Order and the PJT Retention Order; and
  - (f) preparing this Eighth Report.

## VIII. INFORMATION OFFICER'S RECOMMENDATION

82. Based on the Information received and reviewed to date, the Information Officer is of the view that it is reasonable to recognize the Stalking Horse Order, the Ramboll Retention Order, the Revised KEIP Order, and the AIP Orders, and respectfully recommends that the Canadian Court grant the recognition order sought by the Foreign Representative.

All of which is respectfully submitted on this 31<sup>st</sup> day of October, 2020.

**Richter Advisory Group Inc.**  
**in its capacity as Information Officer of**  
**Imerys Talc America, Inc., Imerys Talc Vermont, Inc. and Imerys Talc Canada Inc.**  
**and not in its personal capacity**

Per:



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**Pritesh Patel,**  
**MBA, CFA, CIRP, LIT**  
Senior Vice President

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF IMERYS TALC AMERICA, INC., IMERYS TALC VERMONT, INC., AND IMERYS TALC CANADA INC. (THE "DEBTORS")

Court File No: CV-19-614614-00CL

APPLICATION OF IMERYS TALC CANADA INC. UNDER SECTION 46 OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**EIGHTH REPORT OF THE INFORMATION OFFICER  
OCTOBER 31, 2020**

**OSLER, HOSKIN & HARCOURT LLP**

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