

**THE QUEEN'S BENCH  
WINNIPEG CENTRE**

IN THE MATTER OF THE: *Companies' Creditors Arrangement Act*, R.S.C. 1985,  
c. C-36, as Amended

AND IN THE MATTER OF: Certain proceedings taken in the United States  
Bankruptcy Court for the District of Delaware with  
respect to IMRIS Inc., IMRIS, Inc. and NeuroArm  
Surgical Ltd., (Collectively, the "Chapter 11 Debtors")

Application of Imris, Inc. (“Applicant”) under the: *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. 36, s. 46, as Amended

**FIRST REPORT TO THE COURT SUBMITTED  
BY ALVAREZ & MARSAL CANADA INC., IN ITS CAPACITY AS  
INFORMATION OFFICER**

**June 24, 2015**

**TAYLOR McCAFFREY LLP**

Barristers and Solicitors  
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## INTRODUCTION

1. On May 25, 2015 (the “**Petition Date**”), the Chapter 11 Debtors filed voluntary petitions under Chapter 11 of Title 11 of the United States Code (the “**Chapter 11 Proceedings**”) in the United States Bankruptcy Court for the District of Delaware (the “**US Bankruptcy Court**”).

2. On May 27, 2015 the US Bankruptcy Court made certain First Day Orders including appointing IMRIS, Inc. (“**IMRIS US**”) as a foreign representative of the Chapter 11 Debtors (the “**Foreign Representative**”).

3. The Foreign Representative has commenced proceedings (the “**Recognition Proceedings**” or “**Canadian Proceedings**”) before this Honourable Court

and to date obtained the following Orders under Part IV of the *Companies' Creditor Arrangement Act*, R.S.C. 1985, c. C-36, (the "CCAA"):

- a. Initial Recognition Order dated June 3, 2015;
- b. Supplemental Order dated June 3, 2015;
- c. Replacement Order dated June 11, 2015 ("**Replacement Order**");
- d. Amended and Restated Initial Recognition Order dated June 11, 2015 ("**Initial Recognition Order**"); and
- e. Amended and Restated Supplemental Order dated June 11, 2015 ("**Supplemental Order**").

4. In accordance with the terms of the Replacement Order and Supplemental Order Alvarez & Marsal Canada Inc. ("A&M Canada" or Information Officer) was appointed as Information Officer. A&M Canada is maintaining a website, [alvarezandmarsal.com/IMRIS](http://alvarezandmarsal.com/IMRIS), where documents relating to the Canadian proceedings are available.

5. A&M Canada hereby submits this first report (the "**First Report**") to provide information and to assist the Court in considering the Foreign Representative's request for recognition of further orders in the Canadian Proceedings and to update on the Court on the activities of the Information Officer.

6. In preparing this Report, A&M Canada has relied solely on information and documents provided by the Foreign Representative, FTI Consulting, the Chapter 11 Debtors and their affiliates and their Counsel. A&M Canada has not audited, reviewed or otherwise attempted to independently verify the accuracy of completeness of this

information. Accordingly, A&M Canada expresses no opinion or other form of assurance on the information contained herein.

## **RECOGNITION OF ORDERS GRANTED BY THE U.S. BANKRUPTCY COURT**

7. The Replacement Order appointed A&M Canada as Information Office, replacing FTI Consulting Canada Inc. (“FTI Consulting”).

8. The Initial Recognition Order, amongst other things, declared the United States as the center of main interest, ordered a stay of proceeding against the Chapter 11 Debtors and directed that no property be sold outside the ordinary course of business without further order of the Court.

9. The Supplemental Order recognized and gave full force and effect in all provinces and territories of Canada pursuant to Section 49 of the CCAA to the following US Orders all of which are posted on the Information Officers website:

- a. Joint Administration Order,
- b. Foreign Representative Order,
- c. Claims Agent Order,
- d. Pre-petition Wages Order,
- e. Prepetition Shipping Order;
- f. Customer Obligation Order;
- g. Post-Petition Operations Order;
- h. Insurance Order;
- i. Interim Prepetition Taxes Order;
- j. Interim Cash Management Order; and

- k. Interim DIP Facility Order.

10. The Foreign Representative has filed a motion returnable on June 26, 2015 seeking recognition in the Canadian Proceedings of the following U.S. Orders recently granted in the Chapter 11 Proceedings:

- a. A final Cash Management Order (A) Approving the Continued Use of the Debtors' Cash Management System, (B) Approving Continued Transfers Between Debtors and Non-Debtor Subsidiaries, and (C) Granting Related Relief ("**Final Cash Management Order**");
- b. A final Prepetition Taxes Order (I) Authorizing, but not Directing, the Debtors to Pay Certain Prepetition Taxes and (II) Authorizing Banks to Honor Related Checks and Electronic Transfers ("**Final Prepetition Taxes Order**");
- c. An Order Approving the Debtors' Non-Insider Key Employee Retention Plan ("**Key Employee Retention Order**");
- d. An Order Pursuant to Bankruptcy Code Sections 363(B) and 105(A) Authorizing (I) the Debtors to Pay the Prepetition Claims of Certain Critical Vendors, and (II) Financial Institutions to Honor and Process Prepetition Checks and Transfer to Certain Critical Vendors ("**Critical Vendor Order**");
- e. An Order (A) Approving Procedures in Connection with the Sale of Substantially all of the Debtors' Assets; (B) Scheduling the Related Auction and Hearing to Consider Approval of Sale; (C) Approving Procedures Related to the Assumption of Certain Executory Contracts and Unexpired Leases; (D) Approving the Form and Manner of Notice Thereof; and (E) Granting Related Relief ("**Bid Procedures Order**"); and
- f. A Final Order: (I) Authorizing Debtors to Obtain PostPetition Financing; (II) Authorizing Debtors to Use Cash Collateral; (III) Granting Adequate Protection to PrePetition Secured Parties; and (IV) Scheduling a Final Hearing Pursuant to Bankruptcy Rules 4001(B) and (C) ("**Final DIP Order**", collectively with the Final Cash Management Order, the Final Prepetition Taxes Order, the Key Employee Retention Order, the Critical Vendor Order, and the Bid Procedures Orders, the "**U.S. Orders**").

11. The Orders in paragraph 10 a) and b) are Final Orders of Interim Orders previously recognized and are consistent with relief granted under CCAA proceedings generally and appropriate in the view of the Information Officer.

12. The Key Employee Retention Order in paragraph 10 c) was ordered based on rational and reasoned analysis by the Chapter 11 Debtors of their employee's situation which necessitated utilization of a Key Employee Retention Plan ("**KERP**"). The KERP is meant to provide for the retention of non-insider employees critical to the success of the operations until a sales process has been completed. In aggregate the KERP is \$340,000 USD and impacts 52 employees. The average and maximum payments to employees who meet the criteria for such a payment is \$5,348 and \$9,618 USD. The KERP is reasonable in amount and consistent with relief granted under CCAA proceedings generally and therefore appropriate in the view of the Information Officer.

13. The Critical Vendor Order in Paragraph 10 d) authorizes the Chapter 11 Debtors to make payments to prepetition creditors that are critical suppliers. That is consistent with relief granted in CCAA proceedings and appropriate in the circumstances.

14. The Bid Procedures Order in paragraph 10 e) authorizes a stalking horse and credit bid process. The bid process includes Canadian assets and the Initial Recognition Order requires court approval for the sale of Canadian assets out of the ordinary course. Significant factors in the bid process include:

- a. On May 25, 2015 the Chapter 11 Debtors and Deerfield Acquisition Corp. ("**Stalking Horse Purchaser**"), an affiliate of Deerfield, entered into a purchase agreement (the "**Stalking Horse Agreement**") for an aggregate price of \$9.5 million consisting of \$2.5 million for the Robotics Business and \$7.0 million for the Imaging and Services Businesses. The

purchase price is a credit bid with no cash component and will be paid by way of reduction the Deerfield Claim Amount. Other consideration includes the assumption of specifically identified liabilities by the Stocking Horse Bidder and reimbursement of expenses of the transaction up to \$1.0 million.

- b. Qualified bids must be received by July 20, 2015 together with a 10% deposit. The Qualified bid must be greater than the Stalking Horse Purchase Price plus the expenses reimbursed by at least \$100,000 and must be on terms no less favorable.
- c. If at least one Qualified bid is received an auction will be held on July 23, 2015.
- d. If no Qualified bids are received there will not be an auction and the Stocking Horse Purchasers bid may be recommended at the sale hearing scheduled for July 27, 2015.

The Bid Procedure Process is consistent with proceedings generally under the CCAA and the Information Officer is of the view that it is reasonable in the circumstances.

15. The Final Dip Order in paragraph 10 f) confirms the Interim DIP Order previously recognized in the Canadian Proceedings. The Interim Dip Order authorized a DIP facility of \$5,363,413 of which \$939,413 was to be utilized to pay prepetition loans from Deerfield (**“Rollup Portion”**). It further authorized an interim advance of \$3.5 million which was utilized, in part, to pay the Rollup Portion. The Pre-Filing Report of FTI Consulting in its capacity as proposed Information Officer discussed the various provisions of the DIP Facility and those remain unchanged with the exception that the Final DIP Order authorized an increase in the amount of the DIP facility to \$8.0 million. The Rollup Portion remains unchanged. While a Rollup Portion would run afoul of CCAA s.11.2 in an ordinary CCAA Application, it is permissible under Chapter 11 when order by a US Court. The Final Dip Order is being recognized under Part IV of the CCAA and Section 49 of the CCAA provides that in recognizing an order of a foreign

court, the Canadian Court may make any order provided it is satisfied that it is necessary for the protection of the debtor's property or the interest of creditors. In the view of the Information Officer, the Final Dip Order is necessary for the protection of the debtor's property and interests of the creditors. Further, Deerfield, the DIP lender, is also the only prepetition secured creditor of the Chapter 11 Debtors in Canada (Xerox having confirmed that it was previously paid out) and counsel for the Information Officer has confirmed that its security is perfected. In the circumstances, it is the Information Officer's view that there is no material prejudice to other creditors by the granting of the Rollup Portion of the DIP and it would be appropriate to recognize the order in the Canadian Proceedings.

#### **OTHER MATTERS IN THE CHAPTER 11 PROCEEDINGS**

16. The Official Committee of Unsecured Creditors (the "Creditors' Committee") in the Chapter 11 Proceeding was established on June 4, 2015;

17. Kurtzman Carson Consulting LLC has been appointed as the Claims Agent and have sent notice of the Chapter 11 Proceedings to all known creditors of the Chapter 11 Debtors. A proof of claim form is available on their website. A meeting of Creditors has been set for July 15, 2015 at 10:00 AM ET at: J. Caleb Boggs Federal Building , 844 King Street ,Second Floor Room 2112, Wilmington, DE 19801

#### **ACTIVITIES OF THE INFORMATION OFFICER**

18. The activities of the Information Officer to date included:



- a. Publishing a notice containing the information required by section 53(b) of the CCAA, substantially in the form attached to the Amended and Restated Initial Recognition Order as Schedule "A" in the Globe and Mail (National Edition) on June 17 and June 24, 2015 and in the Winnipeg Free Press on June 16 and June 23, 2015;.
- b. Sending notice of the Chapter 11 Proceedings and the Recognition Proceedings to all known creditors of the Chapter 11 Debtors in Canada. A copy of the notice is attached as **Appendix "A"**;
- c. Establishing a website: [www.alvarezandmarsal.com/imris](http://www.alvarezandmarsal.com/imris) to make available orders granted in and other material related to the Canadian Proceedings. In addition, there is a link on the Information Officer's website to the Chapter 11 Debtors' restructuring website maintained by Kurtzman Carson Consultants LLC, as Claims and Noticing Agent for the Chapter 11 Debtors, which included copies of the U.S. court materials and orders, petitions, notices and information regarding the filing of proofs of claim.
- d. Engaging Taylor McCaffery LLP as independent legal counsel to the Information Officer. Taylor McCaffery LLP was previously counsel to FTI Consulting in their role as the initial Information Officer.

## SUMMARY

19. The Information Officer is of the view that continuation of the stay of proceedings in respect of the Chapter 11 Debtors' property and business in Canada and also in respect of the directors and officers of the Chapter 11 Debtors, is required in order to obtain sufficient time to affect a sale of the business.

20. The Information Officer is of the view that granting the Second Recognition Order is appropriate in the circumstances, having regard to the current status of the Chapter 11 Debtors, the orders made in the US Bankruptcy Court and to allow for co-ordination of the Canadian Proceedings with the Chapter 11 Proceedings.

The Information Officer respectfully submits to the Court this First Report.

Dated this 24<sup>th</sup> day of June, 2015.

Alvarez & Marsal Canada Inc.  
Information Officer  
IMRIS, Inc.



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Tim Reid CA  
Senior Vice President

# **Appendix“A”**

**NOTICE TO CANADIAN CREDITORS OF  
IMRIS INC, IMRIS, INC & NEUROARM SURGICAL LTD.**

IN THE MATTER OF THE:

*Companies' Creditors Arrangement Act,*  
R.S.C. 1985, c. C-36, as Amended

AND IN THE MATTER OF:

Certain proceedings taken in the United  
States Bankruptcy Court for the District of  
Delaware with respect to IMRIS Inc.,  
IMRIS, Inc. and NeuroArm Surgical Ltd.,  
(Collectively, the "Chapter 11 Debtors")

Application of IMRIS, Inc. under section 46 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as Amended

**NOTICE OF RECOGNITION ORDERS**

**PLEASE TAKE NOTICE** that, on May 25, 2015, IMRIS Inc., IMRIS, Inc. and NeuroArm Surgical Ltd., (Collectively, the "**Chapter 11 Debtors**") commenced proceedings pursuant to Chapter 11 of the United States Code (the "Bankruptcy Code") with the United States Bankruptcy Court for the District of Delaware (the "US Court"). In connection with the Chapter 11 Proceedings, the Chapter 11 Debtors have appointed IMRIS, Inc. as their foreign representative (the "**Foreign Representative**"). The Foreign Representative's address is 5101 Shady Oak Road, Minnetonka, Minnesota, 55343. IMRIS, Inc. and NeuroArm Surgical Ltd. are wholly owned subsidiaries of IMRIS Inc. Both IMRIS Inc. and NeuroArm Surgical Ltd. are federally incorporated Canadian companies with their registered offices in Winnipeg, Manitoba.

**PLEASE TAKE FURTHER NOTICE** that an Amended and Restated Recognition Order and an Amended and Restated Supplemental Order (together, the "**Recognition Orders**") have been issued by the Canadian Court pursuant to Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, that, among other things: (i) recognize the Chapter 11 Proceedings as a "foreign main proceeding"; (ii) recognize IMRIS, Inc. as the Foreign Representative of the Chapter 11 Debtors; and (iii) appoint Alvarez & Marsal Canada Inc. as the Information Officer with respect to the Chapter 11 Proceedings.

**PLEASE TAKE FURTHER NOTICE** that counsel to the Foreign Representative is:

**DLA PIPER (CANADA) LLP**  
1 First Canadian Place, Suite 6000  
P.O. Box 367, 100 King Street West  
Toronto, ON M5X 1E2  
Tel: 416-365-3529  
Fax: 416-369-5210  
bruce.darlington@dlapiper.com

**PLEASE TAKE FURTHER NOTICE** that a copy of the Recognition Orders and any other orders that may be granted by the Canadian Court can be viewed at [www.alvarezandmarsal.com/IMRIS](http://www.alvarezandmarsal.com/IMRIS) or to obtain any further information in respect thereof or in respect of the matters set forth in this Notice, persons should contact the Information Officer at the following address:

**ALVAREZ & MARSAL CANADA INC.**

Bow Valley Square 1  
Suite 570, 202 6<sup>th</sup> Ave SW  
Calgary, AB T2P 2R9  
Tel: 403 538 7551  
[treid@alvarezandmarsal.com](mailto:treid@alvarezandmarsal.com)

**DATED AT CALGARY, ALBERTA** this 17<sup>th</sup> day of June, 2015.

**ALVAREZ & MARSAL CANADA INC.**

(solely in its capacity as Information Officer)