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

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

**October 24, 2019**

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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**

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

**OCTOBER 24, 2019**

## 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 “**First Day Motions**”) and 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 (the “**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; (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; and (vi) recognizing and giving full force and effect in Canada to certain of the First Day Orders.
7. On March 19, 2019 and March 22, 2019, the US Court entered various orders sought by the Debtors at their “second day hearing” (the “**March 19 & 22 Entered Orders**”).
  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 (“**Latham**”) 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.
  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 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.
16. 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**").
17. 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**").
18. 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.
19. 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 Claims**") against the Debtors to a trust so that the Debtors can emerge from these restructuring proceedings free of historic talc-related liabilities.
20. Richter, in its capacities as Proposed Information Officer and Information Officer, has previously provided the Canadian Court with four 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

21. The purpose of this fourth report (the "**Fourth Report**") of the Information Officer is to provide the Canadian Court with information concerning:
  - (a) the motion of the Foreign Representative returnable October 28, 2019, for recognition in Canada of the FCR Order, the FCR Professional Advisor Retention Orders, the Committee Professional Advisors Retention Orders, the Assumption of Leases Order, and the Stipulated Protective 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 third report (the “**Third Report**”) dated August 2, 2019.

### III. TERMS OF REFERENCE

- 22. In preparing this Fourth 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 Fourth 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.
- 23. Unless otherwise stated, all monetary amounts contained herein are expressed in United States dollars.
- 24. Capitalized terms not otherwise defined herein are as defined in the application materials, including the affidavit of Anthony Wilson, Treasurer and Director of Finance, sworn on October 22, 2019 (the “**October 22 Wilson Affidavit**”) and filed in support of the Foreign Representative’s application. This Fourth Report should be read in conjunction with the October 22 Wilson Affidavit, as certain information contained in the October 22 Wilson Affidavit has not been included herein in order to avoid unnecessary duplication.

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

#### Future Claims Representative Retention Order

- 25. Prior to the Petition Date, the Debtors retained James L. Patton (“**Mr. Patton**”) of Young, Conaway, Stargatt & Taylor, LLP to serve as the proposed future claimants’ representative (the “**FCR**”) to represent the interests of individuals who may in the future assert Talc Claims against any of the Debtors, including ITC. As noted in the October 22 Wilson Affidavit, the role of the FCR is unique because the central responsibility is to represent the interests of unknown future talc claimants.
- 26. On February 27, 2019, the Debtors filed a motion (the “**FCR Motion**”) for entry of an order appointing Mr. Patton, as legal representative for future talc personal injury claimants *nunc pro tunc* to the Petition Date.

27. As described extensively in the Prior Reports, certain of the Debtors' insurers, including Columbia Casualty Company, Continental Casualty Company, the Continental Insurance Company, and Stonewall Insurance Company (now known as Berkshire Hathaway Specialty Insurance Company in respect of policies issued prior to 1981) (collectively, the "**Insurers**") opposed the appointment of Mr. Patton as the FCR on the basis that, among other things, the Debtors' pre-petition employment of Mr. Patton raised questions about his independence from the Debtors that necessitated more disclosure than was made by the Debtors in the FCR Motion.
28. On June 3, 2019, the US Court entered, among other things, an order appointing Mr. Patton as legal representative for future talc personal injury claimants *nunc pro tunc* to the Petition Date (the "**FCR Order**").
29. On June 14, 2019, the Insurers filed an appeal against the FCR Order with the US Court but did not seek a stay of the FCR Order. On October 16, 2019, the Insurers filed their opening brief in the appeal and the Debtors' answering brief is due by December 16, 2019. The Insurers' reply brief is due 30 days after the Debtors' answering brief is filed.
30. The recognition of the FCR Order in Canada is appropriate as the FCR will be representing the interests of future talc claimants, including potential claimants in Canada. The Bankruptcy Code requires the participation of a legal representative for future claimants in order to obtain the channeling injunction relief that the Debtors ultimately hope to achieve as part of the Chapter 11 Proceedings. Even though ITC is not presently named in talc litigation, it will benefit from any releases obtained as part of the overall settlement, which will also extend to future claims based on the Debtors' historical operations, including those of ITC. The Information Officer notes that while not currently forecasted in ITC's cash flows, ITA could seek reimbursement from ITC for certain of the fees and disbursements paid for by ITA to the FCR, the allocation of which will be subject to review by the Information Officer.

### **The FCR Professional Advisor Retention Orders**

31. As described in greater detail in the October 22 Wilson Affidavit, the FCR filed motions for orders to employ certain financial and legal advisors, of which the Foreign Representative is seeking recognition of the following on the within motion:
  - (a) *Young, Conaway, Stargatt & Taylor LLP* ("**Young Conaway**") - On June 6, 2019, the US Court entered an Order 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**"). The Information Officer understands Young Conaway has extensive experience and knowledge in the field of debtors' and



creditors' rights and business reorganizations under Chapter 11, specifically in bankruptcy cases affecting the rights of asbestos and other mass-tort claimants;

- (b) *Ankura Consulting Group, LLC* ("**Ankura**") – 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**"). The Information Officer understands Ankura has been engaged in many of the largest personal injury and property damage cases in the US over the past several decades. The FCR believes that Ankura has the necessary background and knowledge to provide claims evaluation and consulting services relating to the Chapter 11 Proceedings;
  - (c) *Ducera Partners LLC and Ducera Securities LLC* (collectively, "**Ducera**") – On September 26, 2019, the US Court entered an Order Authorizing the Co-Retention of Ducera as investment banker for the Official Committee of Tort Claimants (the "**Committee**") and the FCR (the "**Ducera Co-Retention Order**"). The FCR, the Committee, and Ducera have agreed that Ducera will jointly advise the FCR and the Committee on the same terms and conditions as the Committee's retention of Ducera, as set forth in the Ducera Retention Order (as hereinafter defined). The FCR anticipates that Ducera will provide the same services under the same fees and expenses, provided to the Committee and, as such, no additional fees will be incurred by the estates due to the co-retention; and
  - (d) *Gilbert LLP* ("**Gilbert**") – 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 Advisor Retention Orders**"). The FCR, the Committee, and Gilbert have agreed that Gilbert will jointly advise the FCR and the Committee on the same terms and conditions as the Committee's retention of Gilbert, as set forth in the Gilbert Order (as hereinafter defined). Gilbert will file consolidated fee applications and will use separate client and task codes to delineate whether work was directed specifically for the Committee, the FCR, or both.
32. The Information Officer understands that Cyprus Mines Corporation ("**Cyprus Mines**") and Cyprus Amax Minerals Company ("**Cyprus Minerals**" and, together, with Cyprus Mines' historical predecessors and affiliates other than Cyprus Talc Corporation, "**Cyprus**") filed objections to the FCR's applications for the Ducera Co-Retention Order and the Gilbert Co-Retention Order arguing, among other things, that Ducera and Gilbert both have conflicts of interest in simultaneously representing such adverse clients as the FCR and the Committee. The US Court considered the objections filed by Cyprus but ultimately granted the FCR's applications for the Ducera Co-Retention Order and the Gilbert Co-Retention Order on the basis that that the FCR and the Committee

are aligned on the issues on which Gilbert and Ducera will be providing advice and that this was a good use of estate resources. However, Judge Silverstein emphasized the fact that all professionals representing the Committee and the FCR are bound by their respective professional responsibilities, and noted that counsel to the Committee and the FCR are expected to monitor for any conflict issues that may arise.

33. In the Debtors' view, the recognition of the FCR Professional Advisor Retention Orders in Canada is appropriate as these professionals will be providing services to the FCR in connection with achieving the relief that the Debtors, including ITC, hope to ultimately obtain pursuant to a court-approved plan of reorganization. The Information Officer notes that while not currently forecasted in ITC's cash flows, ITA could seek reimbursement for a portion of the fees incurred by the professionals subject to the FCR Professional Advisor Retention Orders, the allocation of which will be subject to review by the Information Officer. The Information Officer understands that the amount paid by ITA, subject to the FCR and the FCR Professional Advisor Retention Orders, from Petition Date to September 30, 2019 was approximately \$1.2 million.

#### **The Committee Professional Advisors Retention Orders**

34. As noted in the Third Report, the US Court entered orders authorizing the Committee to employ certain financial and legal advisors to the Committee in connection with the Chapter 11 Proceedings. As noted in the Prior Reports, the United States Trustee for the District of Delaware appointed the Committee on March 5, 2019 pursuant to section 1102 of the Bankruptcy Code. The Committee was formed to represent the collective interests of all tort claimants and ensure that their rights and interests are protected in the Chapter 11 Proceedings.
35. The Information Officer understands that pursuant to the Bankruptcy Code, the Committee may employ or authorize the employment of professional advisors, which are paid from the Debtors' estate, to assist the Committee in carrying out its objectives, subject to approval of the US Court. Between May and August 2019, the US Court entered several professional retention orders, of which the Foreign Representative is seeking recognition of the following on the within motion:
  - (a) *Willkie Farr & Gallagher LLP* ("**Willkie Farr & Gallagher**") - On May 21, 2019, the US Court entered an Order Authorizing the Employment and Retention of Willkie Farr & Gallagher LLP as special litigation and corporate counsel to the Committee (the "**Willkie Farr & Gallagher Order**");
  - (b) *Robinson & Cole LLP* ("**Robinson & Cole**") – On May 21, 2019, the US Court entered an Order Authorizing the Employment and Retention of Robinson & Cole LLP as counsel to the Committee (the "**Robinson & Cole Order**");

- (c) *Gilbert* – On June 6, 2019, the US Court entered an Order Authorizing the Employment and Retention of Gilbert as special insurance counsel to the Committee (the “**Gilbert Order**”). As noted above, Gilbert was also subsequently co-retained by the FCR pursuant to the Gilbert Co-Retention Order;
  - (d) *Legal Analysis Systems, Inc.* (“**Legal Analysis Systems**”) – 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**”);
  - (e) *Ducera* – On August 7, 2019, the US Court entered an Order Authorizing the Employment and Retention of Ducera Partners LLC and Ducera Securities LLC as investment banker for the Committee (the “**Ducera Order**”). Ducera will be compensated based on the following fee and expense structure: (i) a monthly cash fee of \$175,000, (ii) an advisory fee, to be earned upon confirmation of a Chapter 11 plan of either \$1.5 million or \$2.5 million (in the event Ducera renders deposition testimony or provides expert testimony during these Chapter 11 Proceedings), and (iii) a transaction fee, to be paid upon the consummation of each transaction which, when taken together, cannot exceed the lower of \$4 million and 5% of the value of the cash and non-cash assets paid in connection with the transactions. As noted above, Ducera was also subsequently co-retained by the FCR pursuant to the Ducera Co-Retention Order; and
  - (f) *GlassRatner Advisory & Capital Group, LLC* (“**GlassRatner**”) – On August 7, 2019, the US Court entered an Order 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**”).
36. In the Debtors’ view, the recognition of the Committee Professional Advisors Retention Orders in Canada is appropriate as the Committee’s participation is required to receive court approval for a plan of reorganization that includes a channeling injunction in favour of the Debtors, including ITC. All Debtors, including ITC, will benefit from a resolution stemming from any plan of reorganization incorporating a channeling injunction to direct pending and future talc-related litigation claims arising from the Debtors’ historical operations into a trust and enjoin third parties from pursuing such claims against Debtors post-emergence. While ITC has not presently been named in any talc claim litigation, it will benefit from any releases obtained as part of the overall settlement.
37. The Information Officer notes that while not currently forecasted in ITC’s cash flows, ITA could seek reimbursement for a portion of the fees incurred by the professionals subject to the Committee Professional Advisor Retention Orders, the allocation of which will be subject to review by the Information Officer. The

Information Officer understands that the amount paid by ITA, subject to the Committee Professional Advisor Retention Orders, from Petition Date to September 30, 2019 was approximately \$4.2 million.

### **Assumption of Leases Order**

38. On August 7, 2019, the Debtors filed a motion (the “**Assumption of Leases Motion**”) for an order (1) authorizing, but not directing, the Debtors to assume unexpired nonresidential real property leases as set forth in Exhibit 1 of the order, and (2) granting related relief (the “**Assumption of Leases Order**”).
39. The Debtors are party to approximately ninety unexpired nonresidential real property leases (the “**Leases**”), including traditional leases that provide the Debtors with access to talc mines, right of way agreements, easement for land, patented mining claims used the Debtors’ talc operations, and talc production payment agreements. Without the Leases, the Debtors will likely lose their ability to access talc mines, mine talc, and/or transport talc in the ordinary course of operations.
40. Of the approximately 90 Leases, the Debtors have identified only one Lease (which belongs to ITA) that requires a cure payment (the “**Cure Amount**”). The Debtors are unaware of any defaults on the remaining Leases and have determined that the Cure Amount for each such Lease should be \$0.
41. The Debtors have analyzed, among other things, the costs and benefits of each Lease, including the Debtors’ contractual termination rights, as well as potential damages that might arise from the Debtors’ rejection of the Leases.
42. The Debtors have advised that assumption of the Leases is critical to their operations and have determined that any risk in assuming the Leases at this time significantly outweigh the significant and material disruption to operations that would result if the Leases were rejected.
43. On August 16, 2019, the US Court entered the Assumption of Leases Order.
44. The Foreign Representative seeks recognition of the Assumption of Leases Order in Canada as 50 of the 90 Leases are in Canada and have been assumed by ITC.

### **Stipulated Protective Order**

45. On September 27, 2019, the US Court entered into the Stipulated Protective Order, as defined below.
46. The Stipulated Protective Order will govern the disclosure of information and documents, including testimony and transcripts, in connection with the Chapter 11 Proceedings. The form includes, among other things, (i) customary

terms for the identification of confidential information and the restricted use thereof (ii) confirms that neither its terms nor the US Court's approval operate to authorize the Debtors to share another party's privileged information (iii) requires advance notice to third parties if the Debtors intend to produce information over which such other party asserts a shared privilege or similar protection and (iv) protects the Debtors and other parties from any claim that an inadvertent disclosure operates as a waiver of privilege or similar protection in this or any other proceeding in state or federal court.

47. The recognition of the Stipulated Protective Order in Canada is appropriate as the order will govern the disclosure of information and documents relating to all of the Debtors, including ITC.

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

48. The October 22 Wilson Affidavit describes the material motions and developments that have been heard within the Chapter 11 Proceedings since the date of the Third Report. The Information Officer has provided commentary on one of those developments which may be of particular interest to the Canadian Court.

### **Claims Process Update**

49. On August 7, 2019, the Canadian Court recognized the Bar Date Order establishing October 15, 2019 as a general bar date by which all entities, except as otherwise provided therein, and expressly excluding Talc Claims, must file proofs of claim in the Chapter 11 Proceedings.
50. Per the October 22 Wilson Affidavit, a total of 18 timely proofs of claims were filed against ITC to date, the majority of which were unliquidated claims. These claims include trade claims, tax claims, intercompany claims from affiliates, insurance claims, and others. Additionally, 2 consolidated proofs of claim were filed against the Debtors, including ITC, by (1) the Pension Benefit Guaranty Corporation and (2) Imerys S.A. and its non-debtor affiliates.
51. The Information Officer understands ITC is engaged in a reconciliation process to identify duplicate claims, claims that are already listed on the schedules, or whether the claims were filed against the appropriate entities. Following the completion of this reconciliation process, ITC will determine which claims are valid and which are subject to objection in the course of the Chapter 11 Proceedings.

## **VI. UPDATE ON ADVERSARY PROCEEDING**

52. As noted in the Prior Reports, on March 7, 2019, the Debtors filed a complaint and motion (the "**Adversary Proceeding**") for injunctive and declaratory relief to seek a declaration that (i) ITA owns all rights to the proceeds of the Insurance Policies related to the pre-transfer talc liabilities and (ii) section 362(a)(3) of the Bankruptcy Code applies to prohibit any effort by Cyprus to access such proceeds.

## Common Interest Materials

53. On July 22, 2019, the Debtors, FCR, and the Committee filed a joint motion for entry of an order approving a new form of the Revised Protective Order (the “**Proposed Stipulated Protective Order**”).
54. On July 29, 2019, Johnson & Johnson (“**J&J**”) and the Certain Excess Insurers filed objections to the Proposed Stipulated Protective Order. J&J objects on the basis that the Proposed Stipulated Protective Order does not address documents that J&J believes to be privileged. The Insurers object on the basis that the order should include further protections of privileged information.
55. On August 1, 2019, Cyprus and the Debtors filed separate responses to the objections filed on July 29, 2019. The Debtors believe that the current forms of order are fair, appropriate, and provide comprehensive protections for documents exchanged in these Chapter 11 proceedings. Cyprus filed a response to state that the Insurers were engaged to review the Proposed Stipulated Protective Order, however, have failed to provide any specific comments.
56. On August 1, 2019, the Insurers filed a reply in response to Cyprus and the Debtors, asserting their disagreement on the protections offered in the Proposed Stipulated Protective Order, and provided suggestions on modifications to the order.
57. On August 5, 2019, a hearing was held regarding the Proposed Stipulated Protective Order. During the hearing, the Court ruled on certain objections and provided direction with regard to modifications to the Proposed Stipulated Protective Order.
58. Following the hearing, the Debtors conferred with the FCR, the Committee, Cyprus, Providence Washington, J&J, the UST, and the Insurers, and incorporated modifications to the order in light of the Court’s rulings and discussions with the parties involved (the “**Stipulated Protective Order**”).
59. On August 28, 2019, the Debtors filed the Stipulated Protective Order, in which, the FCR, the Committee, Cyprus, Providence Washington, J&J, and the UST have provided approval. The Insurers did not provide consent to the Stipulated Protective Order due to disagreement on certain modifications requested.
60. On September 26, 2019, the Court filed a letter stating that the Court will enter the forms of order submitted on August 28, 2019, with minor revisions, after review of the various filings made in connection to the Stipulated Protective Order.
61. As noted above, on September 27, 2019, the US Court entered the Stipulated Protective Order.

## VII. UPDATE ON CERTAIN MATTERS RELATING TO IMERY'S TALC CANADA INC.

62. 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 12-week period from July 20, 2019 to October 11, 2019, ITC had total cash receipts of approximately \$11.8 million (as compared to forecast cash receipts of \$11.2 million) and total cash disbursements of \$10 million, including \$3.5 million for the ITC Reimbursement (as defined herein), (as compared to forecast cash disbursements of \$13.5 million, including \$4.6 million for the ITC Reimbursement), for a net cash inflow of \$1.8 million (as compared to forecast net cash outflow of \$2.3 million) over the period.
63. As at October 11, 2019, the Information Officer understands that ITC had approximately \$13.5 million of cash on hand, which includes balances held in ITC's accounts at SunTrust Bank pursuant to the Final Cash Management Order.

### ITC Professional Fee Reimbursements

64. Since the Petition Date, ITA has paid all of the professional fees incurred on behalf of the Debtors as part of the Chapter 11 Proceedings (excluding the Recognition Proceedings), which has totaled approximately \$16.3 million, of which \$11.1 million (the "**Fees To Date**") related to the fees and disbursements of Latham, A&M, NGE, Prime Clerk LLC, KCIC LLC and Richards, Layton & Finger, P.A. (the "**Debtors Professional Advisors**"), as of September 27, 2019.
65. In August 2019, the Debtors and its advisors engaged with the Information Officer to commence discussions with respect to the allocation of the fees and disbursements among the Debtors of the Debtors Professional Advisors, including those amounts paid by ITA to date, in order to allow the Debtors to transfer excess cash that had accumulated in ITC to assist with the ongoing liquidity needs of ITA. The Information Officer notes that the retention of each of the Debtors Professional Advisors was previously recognized by the Canadian Court, including the possibility that the Debtors Professional Advisors could seek reimbursement from ITC for certain of their fees and disbursements.
66. After discussions among the parties, the Debtors proposed a pro rata allocation of the current and future fees of the Debtors Professional Advisors among each of ITA, ITC and ITV on the basis that the Debtors Professional Advisors were engaged jointly and severally by the Debtors, including ITC, and were providing services for the benefit of all the Debtors. Under this proposal (the "**ITC Reimbursement Proposal**"), ITC would reimburse ITA for one-third of: (i) the Fees To Date and (ii) the future ongoing costs paid to the Debtors Professional Advisors, net of ITA and ITV's allocation of the professional fees and disbursements paid by ITC in connection with the Recognition Proceedings, to be reconciled on a monthly basis, through to the end of the Chapter 11 Proceedings.

67. The Information Officer engaged in discussions with A&M to understand the implications of the ITC Reimbursement Proposal on ITC's forecasted cash flows to ensure ITC maintained adequate liquidity to pay its ongoing obligations. After reviewing the Information provided by the Debtors and its advisors, the Information Officer agreed that the ITC Reimbursement Proposal was reasonable in the circumstances and the parties agreed on a calculation methodology to implement the ITC Reimbursement Proposal.
68. Subsequent to input and review of the Information Officer, on September 30, 2019, the Debtors transferred approximately \$3.5 million from ITC to ITA for the reimbursement of the Fees To Date. In relation to future reimbursements as part of the ITC Reimbursement Proposal, the Debtors have agreed to provide the Information Officer with monthly reporting on ITC's pro rata share of professional fees and disbursements paid in the month prior to initiating any transfers.

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

69. The activities of the Information Officer since the Third 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 and the Recognition Proceedings;
  - (c) reviewing materials filed by various parties in the Chapter 11 Proceedings in connection with the Committee Professional Advisors Retention Orders, the FCR Order, the FCR Professional Advisor Retention Orders, the Assumption of Leases Order, and the Stipulated Protective Order sought in the Chapter 11 Proceedings;
  - (d) corresponding with the Debtors' advisors in connection with the ITC Reimbursement Proposal
  - (e) reviewing materials filed by various parties in the Adversary Proceeding;
  - (f) reviewing ITC's cash flow reporting and corresponding with A&M on same;
  - (g) attending before the Canadian Court for recognition of the Claims Bar Date Order and the Fee Examiner Order; and
  - (h) preparing this Fourth Report.



## **IX. INFORMATION OFFICER'S RECOMMENDATION**

70. Based on the Information received and reviewed to date, the Information Officer is of the view that it is reasonable to recognize the Committee Professional Advisors Retention Orders, the FCR Order, the FCR Professional Advisor Retention Orders, the Assumption of Leases Order, and the Stipulated Protective Order, and respectfully recommends that the Canadian Court grant the recognition orders sought by the Foreign Representative.

All of which is respectfully submitted on this 24<sup>th</sup> day of October, 2019.

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

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

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
PROCEEDING COMMENCED AT TORONTO

**FOURTH REPORT OF THE INFORMATION OFFICER**  
**OCTOBER 24, 2019**

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