

Form 78.05

2023



Hfx No. 523334

SUPREME COURT OF NOVA SCOTIA

IN THE MATTER OF:

Application by IMV Inc., Immunovaccine Technologies Inc. and IMV USA Inc. (the "Applicants"), for relief under the *Companies' Creditors Arrangement Act*

ORDER  
(CCA Termination, Monitor's Discharge and Approval of Seventh Report, Monitor's Activities and Fees)

Before the Honourable Justice John P. Bodurtha in chambers:

The Applicants propose to make a compromise or arrangement under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCA") and were granted the Initial Order dated May 1, 2023, which, among other things, appointed FTI Consulting Canada Inc. ("FTI") as Monitor of the Applicants (the "Monitor"), and, now or in the future, the Monitor applies for other relief under the CCA as may be sought on notice of motion.

The following parties received notice of this motion: see attached at Schedule "A".

The following parties, represented by the following counsel, made submissions:

Party

Counsel

FTI Consulting Canada Inc., the Monitor

**Stikeman Elliott LLP**  
Maria Konyukhova  
Natasha Rambaran

On the motion by the Monitor, the following is ordered:

**Service and Definitions**

1. The service of the Notice of Motion, the Seventh Report of the Monitor dated November 23, 2023 (the "**Seventh Report**") and the supporting documents, as set out in the affidavit of service, is hereby abridged and validated so that this Motion is properly returnable today and further service thereof is hereby dispensed with.

2. Service of this Order is permitted at any time and place and by any means whatsoever.

3. All capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Amended and Restated Initial Order issued on May 5, 2023 (as further amended on September 27, 2023, the "**Amended and Restated Initial Order**") in these proceedings (the "**CCAA Proceedings**").

#### **Effective Time**

4. This Order and all of its provisions are effective as of 12:01 a.m. (Halifax time) on the date of this Order.

#### **Approval of the Seventh Report, Monitor's Activities and Fees**

5. The Seventh Report and the activities of the Monitor referred to therein be and are hereby approved, provided, however, that only the Monitor, in its personal capacity and with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

6. The Monitor has fulfilled its obligations pursuant to the CCAA and the orders of the Court until and including the date of this Order.

7. The fees and disbursements related to the activities of the Monitor and its legal counsel, Stikeman Elliott LLP ("**Stikeman**"), in these CCAA Proceedings, as detailed in the Sixth Report of the Monitor dated October 20, 2023, the Seventh Report, the Affidavit of Jeffrey Rosenberg sworn November 23, 2023, attached as Appendix "A" to the Seventh Report, and the Affidavit of Maria Konyukhova sworn November 23, 2023, attached as Appendix "B" of the Seventh Report are hereby approved.

8. The anticipated further fees and disbursements of the Monitor and Stikeman in connection with the completion by the Monitor of its remaining duties and administration of the CCAA Proceedings, estimated not to exceed \$50,000 (inclusive of HST) (the "**Remaining Fees and Disbursements**"), all as set out in the Seventh Report, be and are hereby approved, and that the Monitor and Stikeman shall not be required to pass their accounts in respect of any further activities in connection with the administration of the CCAA Proceedings, provided, however, that if the further fees and disbursements of the Monitor and Stikeman in connection with the completion by the Monitor of its remaining duties and administration of the CCAA Proceedings exceed the above estimate, the Monitor shall return to Court to seek approval to pay any such

amounts in excess of the Remaining Fees and Disbursements pursuant to a further Order of the Court.

### **CCAA Termination**

9. Upon service by the Monitor of an executed certificate in substantially the form attached hereto as Schedule "B" (the "**Termination Certificate**") on the service list in these CCAA Proceedings certifying that, to the knowledge of the Monitor, all matters to be attended to in connection with these CCAA Proceedings have been completed, these CCAA Proceedings shall be terminated without any further act or formality (the "**CCAA Termination Time**"), save and except as provided in this Order, and provided that nothing herein impacts the validity of any Orders made in these CCAA Proceedings or any action or steps taken by any Person pursuant thereto.

10. The Monitor is hereby directed to file a copy of the Termination Certificate with the Court as soon as is practicable following the service thereof on the service list in these CCAA Proceedings.

11. The Charges shall be terminated, released and discharged as of the CCAA Termination Time without any further act or formality.

### **Discharge of the Monitor**

12. Effective at the CCAA Termination Time, FTI shall be and is hereby discharged from its duties as the Monitor and shall have no further duties, obligations or responsibilities as Monitor from and after the CCAA Termination Time, provided that, notwithstanding its discharge as Monitor, FTI shall have the authority to carry out, complete or address any matters in its role as Monitor, that is ancillary or incidental to these CCAA Proceedings following the CCAA Termination Time, as may be required, including: (a) distributing to the Applicants' senior secured creditor any tax refunds (the "**Tax Refunds**") owing to Immunovaccine Technologies Inc. by Canada Revenue Agency upon receipt of same by the Monitor; and (b) executing and delivering such additional conveyances, transfers and other assurances as may be reasonably required to effectively transfer the Purchased Assets (as defined in the Agreement of Purchase and Sale, dated as of September 1, 2023 (the "**APA**"), between IMV Inc. and Immunovaccine Technologies Inc, as Vendors and Horizon Technology Finance Corporation, as Collateral Agent, as Purchaser), to the Purchaser and to carry out the intent of the APA (the "**Monitor Incidental Matters**"). In completing

any such Monitor Incidental Matters, FTI shall continue to have the benefit of the provisions of all Orders made in the CCAA Proceedings and all protections under the CCAA, including all approvals, protections, stay of proceedings in favour of FTI in its capacity as the Monitor, and nothing in this Order shall affect, vary, derogate from or amend any of the protections in favour of the Monitor pursuant to any Order issued in the CCAA Proceedings..

13. Notwithstanding any provision of this Order and the termination of these CCAA Proceedings, nothing herein shall affect, vary, derogate from, limit or amend, and the Monitor shall continue to have the benefit of, all of the rights, approvals and protections in favour of the Monitor at law or pursuant to the CCAA, the ARIO or any other Order of this Court in these CCAA Proceedings or otherwise, all of which are expressly continued and confirmed following the CCAA Termination Time, including in connection with any other actions taken by the Monitor following the CCAA Termination Time with respect to the Applicants or these CCAA Proceedings.

14. No action or other proceeding shall be commenced against the Monitor in any way arising from or related to its capacity or conduct as the Monitor, except with prior leave of this Court on no less than fifteen (15) days' prior written notice to the Monitor.

### **Releases**

15. Effective at the CCAA Termination Time, in addition to the protections in favour of the Monitor in any order of this Court in the CCAA Proceedings or pursuant to the CCAA, the Monitor, Stikeman, and each of their respective affiliates, officers, directors, partners, employees and agents, as applicable, (collectively, the "**Released Parties**") shall be released and forever discharged from any and all liability that the Released Parties now or may hereafter have by reason of any act, omission, transaction, dealing or other occurrence in any way relating to arising out of, or in respect of the CCAA Proceedings, including in carrying out any incidental matters, whether known or unknown, matured or unmatured, foreseen or unforeseen, relating to matters that were raised, or could have been raised, in the within proceedings (collectively, the "**Released Claims**"), save and except for any gross negligence or wilful misconduct.

### **Assignment into Bankruptcy**

16. The Applicants, or the Monitor on their behalf, are authorized, in their discretion or at the discretion of the Monitor, to make an assignment in bankruptcy pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, as amended (the "**BIA**") before the CCAA Termination Time.

17. The Monitor is authorized to execute and file any assignment in bankruptcy and related documents on behalf of the Applicants.

18. FTI is authorized and empowered, but not obligated, to act as trustee in bankruptcy (the "**Trustee**") for each of the Applicants.

19. This order shall bind any Trustee appointed in respect of any of the Applicants.

20. FTI shall continue to be authorized, directed and empowered to hold and distribute any assets of the Applicants including any future assets, including, without limitation, any Tax Refunds, and any such future assets shall not constitute property of the Applicants following any assignment in bankruptcy and shall not vest in the Trustee.

21. The Trustee shall be and is hereby authorized to administer the bankruptcy estates as if such estates were in respect of a single bankrupt for the purposes of carrying out its duties and responsibilities as trustee under the BIA, including, without limitation:

- (a) administering the bankruptcy estates of IMV Inc., Immunovaccine Technologies Inc. and IMV USA Inc. under a single court file number and title of proceeding;
- (b) sending a notice of the first meeting of creditors (the "**Notice**") in the manner prescribed by section 102 of the BIA by sending a consolidated Notice for all of the Applicants to accompany the Notice set out in subsection 102(2) of the BIA (the "**Forms**");
- (c) convening meetings of creditors and inspectors in the bankrupt estates of the Applicants through one combined advertisement and conducting such meetings jointly provided that the results of any creditors' vote shall be separately tabulated for each such bankrupt estate;
- (d) using a consolidated form of proof of claim that directs creditors to identify the bankrupt estate in which a claim is made for voting and for distribution purposes;
- (e) maintaining a consolidated bank account with respect to the Applicants' respective bankruptcy estates;
- (f) issuing consolidated reports in respect of the bankruptcy estates of the Applicants;

(g) performing a consolidated making, filing, advertising and distribution of all filings and notices in the bankrupt estates of the Applicants required under the BIA; and

(h) appointing a single group of inspectors to be the inspectors for the consolidated bankruptcy estates of the Applicants.

22. This procedural consolidation is not a substantive consolidation of the bankrupt estates of the Applicants and will automatically terminate if the Trustee is replaced as licensed insolvency trustee of any, but not all, of the estates of the Applicants.

23. The Monitor is hereby authorized and directed to transfer \$40,000 to the Trustee for the fees and disbursements of the Trustee and its counsel (plus applicable taxes). Following completion of the Applicants' BIA Proceedings, the Trustee is hereby authorized and directed to pay any available remainder from such retainer to Horizon.

#### **Extension of the Stay Period**

24. The Stay Period be and is hereby extended to the earlier of: (i) the CCAA Termination Time; and (ii) such other date as this Court may order.

#### **General**


25. This Order and all other orders in these CCAA Proceedings shall have full force and effect in all provinces and territories in Canada.

26. The aid and recognition of any Court, tribunal, regulatory or administrative body in Canada, the United States of America or elsewhere, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All Courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and the Monitor as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor or the authorized representative of the Applicants in any foreign proceeding, to assist the Applicants and the Monitor, and to act in aid of and to be complementary to this Court, in carrying out the terms of this Order.

27. Each of the Applicants and the Monitor may apply to any court, tribunal, or regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and the Monitor may act as a representative in respect of the


within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

Issued November 29, 2023

  
~~Prothonotary~~  
**TRACE ELIZABETH**  
Deputy Prothonotary

IN THE SUPREME COURT  
COUNTY OF HALIFAX, N.S.  
I hereby certify that the foregoing document,  
identified by the seal of the court, is a true  
copy of the original document on the file herein.

NOV 29 2023

  
Deputy Prothonotary

**TRACE ELIZABETH**  
Deputy Prothonotary

SCHEDULE A  
[ATTACHED]



## SUPREME COURT OF NOVA SCOTIA

IN THE MATTER OF: Application by IMV Inc., Immunoassayed Technologies Inc. and IMV USA Inc. (the “Applicants”), for relief under the *Companies’ Creditors Arrangement Act*

<b>SERVICE LIST</b> (As of November 23, 2023)	
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<p><b>FTI Consulting Canada Inc.</b> TD South Tower 79 Wellington Street West Suite 2010, P.O. Box 104 Toronto, ON M5K 1G8 <i>Court-Appointed Monitor</i></p>	<p><b>Jeffrey Rosenberg</b> Tel: 416.649.8073 Email: Jeffrey.Rosenberg@fticonsulting.com</p> <p><b>Jodi Porepa</b> Tel : 437.332.5743 Email : Jodi.Porepa@fticonsulting.com</p> <p><b>Adsaran Vithiyananthan</b> Email: Adsaran.Vithiyananthan@fticonsulting.com</p>
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## SCHEDULE B

2023

Hfx No. 523334

### SUPREME COURT OF NOVA SCOTIA

**IN THE MATTER OF:**            **Application by IMV Inc., Immunovaccine Technologies Inc.  
and IMV USA Inc. (the "Applicants"), for relief under the  
*Companies' Creditors Arrangement Act***

### TERMINATION CERTIFICATE

#### RECITALS

- A. FTI Consulting Canada Inc. ("**FTI**") was appointed as the Monitor of the Applicants in the within proceedings (the "**CCAA Proceedings**") commenced under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") pursuant to an Initial Order of the Supreme Court of Nova Scotia (the "**Court**") dated May 1, 2023 (as amended and restated, the "**Initial Order**").
- B. Pursuant to an Order of this Court dated November 29, 2023 (the "**CCAA Termination Order**"), among other things, FTI shall be discharged as the Monitor and the Applicants' CCAA Proceedings shall be terminated upon the service of this Termination Certificate on the service list in these CCAA Proceedings, all in accordance with the terms of the CCAA Termination Order.
- C. Unless otherwise indicated herein, capitalized terms used in this Termination Certificate shall have the meaning given to them in the CCAA Termination Order.

**THE MONITOR CERTIFIES** the following:

1. To the knowledge of the Monitor, all matters to be attended to in connection with the CCAA Proceedings (Hfx No. 523334) have been completed.

**ACCORDINGLY**, the CCAA Termination Time as defined in the CCAA Termination Order has occurred.

**DATED** at Toronto, Ontario this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**FTI CONSULTING CANADA INC.** in its capacity as the Court-appointed Monitor of the Applicants and not in its personal or corporate capacity

Per: \_\_\_\_\_

Name: Jeffrey Rosenberg  
Title: Senior Managing Director