

FOR RELEASE: 18 DECEMBER 2023

ASX:
MNS

OTCQX:
MNSEF

FSE:
U1P

iM3NY Credit Facility

Magnis Energy Technologies Ltd (“**Magnis**”, or the “**Company**”) (**ASX: MNS; OTCQX: MNSEF; FSE: U1P**) refers to its ASX announcements dated 10 and 15 November 2023 and 1 December 2023 (together, the “**Announcements**”) regarding the Default Notices received under, and the alleged Events of Default in relation to, the Credit Facility.

Unless otherwise defined in this announcement, capitalised words and terms have the meanings given to them in the Announcements.

Magnis advises that following receipt of the subsequent Default Notice on 30 November 2023 (for further information please see Magnis’ ASX announcement dated 1 December 2023), Magnis has accepted¹ that the Lender was entitled to and has in fact exercised its rights to change the composition of the Board of (New York-registered) Imperium3 New York, Inc.² (“**Inc**”).

The Board of Inc now consists of two Lender-appointed directors and Mr Shailesh Upreti, a C4V-appointed director.

Magnis is engaging with the newly appointed directors of Inc (and with representatives of the Lender) with the view to assisting it govern and manage Inc from an operational and financial perspective and, ultimately, to potentially see control of the Board of Inc pass back to Magnis, including by seeking to procure alternative financing to refinance the Credit Facility³.

Shareholders should note that Magnis is not able to predict whether its efforts to procure a resolution to the alleged breaches under the Credit Facility will be successful. However, if Magnis’ efforts are unsuccessful, it is possible that Magnis’ economic interest in the Battery Facility will be diluted, the Battery Facility will be sold by the Lender and/or the Battery Facility will cease to operate.

The occurrence of any of the possible eventualities referred to in the preceding paragraph will likely have an adverse (albeit, presently unquantifiable) impact on Magnis’ financial performance and condition⁴. It is also possible (and particularly in the light of the recent changes to the Board of Inc) that Magnis will no longer be required to consolidate its financial statements with those of Inc’s⁵.

¹ On 6 December 2023, Magnis accepted that the Lender was entitled to exercise its rights with respect to the composition of the Board of Inc.

² Inc owns and operates the Lithium-ion battery facility in Endicott, New York (“**Battery Facility**”). Please see footnote 6 for further information.

³ Please note there can be no certainty that a resolution acceptable to the Lender will be reached and/or that the Borrower will be able to obtain alternative financing on terms acceptable to the Borrower (or at all).

⁴ It is possible that the carrying value of Magnis’ interest in C4V will need to be impaired. The directors will test the carrying value of C4V in connection with the preparation of its half year financial statements.

⁵ Magnis is working with its auditor and will advise the market if the recent developments referred to in this announcement require Magnis to change its accounting policy in relation to consolidation at this time.

Recent Media Reports

Magnis is aware of recent media reports which in the main requote or comment on materials before the Court of Chancery in Delaware, USA, in proceedings initiated by C4V. As part of these proceedings, C4V is seeking to challenge the appointment of Magnis-appointed director Mr Giles Gunesekera to the Board of (Delaware-registered) iM3NY LLC⁶ (“LLC”). At a recent preliminary hearing regarding the matter, the Court of Chancery in Delaware ordered that the status quo be preserved – i.e. the current Board of LLC continue to include Mr Giles Gunesekera.

While Magnis will defend these proceedings if they in fact progress to a final hearing, it is also seeking to resolve the matter with C4V outside of court, with the primary aim of refinancing Inc.

These media reports also speculate that the Company may be insolvent “without the gigafactory on its books”. This is incorrect.

While the financial implications on Magnis of the loss of control of the Board of, or any subsequent dilution of its economic interest in, Inc are not presently known, it is not expected that either such eventuality would have a material direct impact on Magnis’ solvency. The Company reaffirms its earlier announcements to ASX this regard.

Furthermore, Magnis also reaffirms that:

- as at the date of this announcement, a majority of the Board of LLC consists of Magnis-appointed directors, which was confirmed by the Chancery Court of Delaware in the recent preliminary hearing;
- whilst the hearing of the substantive matter before the Chancery Court of Delaware has been expedited and has been set down for 2 January 2024, Magnis is, in the interim, endeavouring to work with C4V and the Lenders to expedite the refinancing of Inc; and
- the directors of Magnis are (in addition to assisting Inc achieve a refinancing), continuing to advance the planned development of its Nachu Graphite and AAM Projects.

Magnis will keep the market informed of all material developments in relation to LLC, Inc and the Credit Facility (as well as in relation to its other projects) in accordance with Listing Rule 3.1.

Magnis confirms compliance with the Listing Rules, and in particular, Listing Rule 3.1.

Continued Suspension

ASX has confirmed that Magnis’ shares will remain suspended under Listing Rule 17.3 until ASX is satisfied with Magnis’ compliance with the Listing Rules (including its ability to comply with Listing Rule 3.1 and its periodic reporting obligations on an ongoing basis) and that it is otherwise appropriate for Magnis’ shares to be reinstated to quotation.

Magnis continues to work with ASX in an attempt to satisfy ASX of its ability to comply with Listing Rule 3.1 in relation to material developments regarding LLC, Inc and the Credit Facility.

⁶ LLC is the holding company that owns 95.5% of the equity in Inc. As at the date of this announcement, Magnis’ indirect economic interest in Inc (which is approximately 73%) has not changed.

About Magnis

Magnis Energy Technologies Ltd (ASX: MNS; OTCQX: MNSEF; FSE: U1P) is a vertically integrated lithium-ion battery technology and materials company in the Lithium-ion battery supply chain. The company's vision is to enable, support and accelerate the mass adoption of Electric Mobility and Renewable Energy Storage critical for the green energy transition.

This announcement has been authorised for release by the Board of Magnis Energy Technologies Ltd (ACN 115 111 763).

FOR FURTHER INFORMATION

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