

FOR RELEASE: 10 January 2024

ASX:
MNS

OTCQB:
MNSEF

FSE:
U1P

iM3NY Market Update

Magnis Energy Technologies Ltd (“Magnis” or the “Company”) refers to its recent ASX announcements regarding the status of the Credit Facility and, in particular to its:

- 27 December 2023 disclosure regarding the C4V-initiated court proceedings in Delaware in the United States (“the Court Proceedings”)
- 18 December 2023 disclosure regarding the Company’s engagement with the newly appointed directors of Imperium3New York, Inc (“Inc”) and
- market update via the AGM presentation filed on 30 November 2023 (“AGM Presentation”) which highlighted the two projects the company is engaged in, being Nachu in Tanzania and the LIB Factory (referred to as “iM3NY”).

The Court Proceedings

Formal court orders in relation to the Court Proceedings have now been handed down and are attached as Appendix A. The media has incorrectly reported on these proceedings on a number of occasions and a recent news article purporting to summarise these orders incorrectly stated that a summary judgement application was underway. This is inaccurate and reference should instead be had to Appendix A for the court’s full ruling, a summary of which was as set out in the Company’s announcement of 27 December 2023¹, namely that a status quo order² be granted and the 2 January hearing date cancelled, although a hearing date may still occur if one or both parties approached the court and sought this. The other key orders sought which were granted was to accept the resignation of Magnis-appointed directors Mr. Frank Poullas, Ms. Claire Bibby and Mr. Giles Gunesekera from the Board of LLC and accept a commitment from Magnis that it will not seek to change composition of the board of LLC until 31 March 2024, except it can challenge any change to the board of LLC under the terms of the status quo order.

Inc – Information Sharing Arrangements

Magnis advises that it has now put arrangements in place with the newly appointed directors of Inc, so as to enable the Company to keep the market informed of material matters occurring at iM3NY. To that end, please refer to the Operational Update below. It

¹ Please see the announcement -

<https://wcsecure.weblink.com.au/clients/magnisenergytech/headline.aspx?headlineid=21496701>

² A status quo order sets out what cannot be done either as an action of the board or in regard to the governance of the entity. In this case this can only happen where 3 business days’ notice is given to Magnis setting out the details, enabling Magnis time to object to the court or make an announcement or acquiesce.



should be noted that ASX does not consider these current arrangements to be sufficient for Magnis to comply with its Listing Rule 3.1 obligations.

Operational Update

The AGM presentation contained details of advice given to Magnis by the production team that they were on target to achieve a daily production run of 300 cells per day by December 2023. Magnis has since been informed by the new board of Inc that this is not the case and that there was no production in December 2023, nor any revenue generated in that month.

Credit Facility Update

Magnis' efforts to pay out the existing lender and provide additional working capital, as shared in the AGM Presentation, are continuing. The lender has in the interim provided additional working capital to iM3NY by releasing ~USD\$3.3M from the interest Escrow account and capitalizing the interest payment which was due on 31 December 2023.

About Magnis

Magnis Energy Technologies Ltd (ASX: MNS; OTCQB: 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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Appendix A follows

#10677516v2



GRANTED

EFiled: Jan 03 2024 04:31PM EST
Transaction ID 71732581
Case No. 2023-1168-KSJM



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

CHARGE CCCV LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 2023-1168-KSJM
)	
FRANK POUILLAS, CLAIRE)	
BIBBY, and MAGNIS ENERGY)	
TECHNOLOGIES LTD.,)	
)	
Defendants,)	
)	
and)	
)	
IM3NY LLC, a Delaware Limited)	
Liability Company,)	
)	
Nominal Party.)	

[PROPOSED] FIRST AMENDED STATUS QUO ORDER

IT IS HEREBY ORDERED that:

1. Unless otherwise provided herein, this Order controls the governance and management of nominal party iM3NY LLC (“**iM3**” or the “**Company**”) until (a) a final, non-appealable judgment in the above-captioned action (the “**Action**”), or (b) the Court enters a superseding order.

2. Either party may seek the modification or termination of this Order at any time for good cause shown, provided that they first notify the other party of the intended modification or desire to terminate this Order.

3. During the pendency of the Action, the board of managers of the Company (the “**Status Quo Board**”) will consist of Mike Driscoll and Dr. Shailesh Upreti, as well as any additional person(s) that the Status Quo Board or Court may appoint pursuant to Section 5(a) below (collectively, the “**Status Quo Managers**”).

4. During the pendency of this Action, any Prohibited Action (defined below in Section 5) will only take effect after counsel for the parties in this Action are provided at least three (3) business days’ notice.

5. During the pendency of the Action, the Company and any manager, officer, employee, unitholder, or agent of the Company, shall not take any of the following actions unless approved by a majority of the Status Quo Board at a duly noticed meeting, by majority written consent of the Status Quo Board, or ordered by the Court (together, the “**Prohibited Actions**”):

a. any action that could result in any changes to the size or composition of the Status Quo Board, or any committee thereof;

b. amend, modify, or repeal the Company’s Limited Liability Company Agreement or Certificate of Formation;

c. enter into or agree to any transaction, the consummation of which would require the approval of or a vote by the Company’s members;

d. authorize, establish, create, issue, sell, purchase, exchange, or commit or agree to issue, sell, or purchase any securities (including, without limitation, shares of stock, bonds, warrants, and options) of the Company;

e. declare, authorize, or implement (i) any spin-off, split-off, or other similar disposition, by distribution of units, exchange of securities, recapitalization, or otherwise, of the Company, or of any line of business of the Company; or (ii) any split, dividend, reverse split or other distribution of or affecting securities or assets of the Company;

f. approve or enter into any agreement of merger, tender offer, restructuring, or recapitalization with respect to the Company;

g. cause the Company to incur any indebtedness or similar liability: (i) in excess of \$5,000; or (ii) that is other than in the ordinary course of business in accordance with past practices;

h. transfer, encumber, exchange, expend, pledge, hypothecate, loan, or otherwise dispose of, directly or indirectly, any Company asset;

i. take any action for the filing of a voluntary bankruptcy petition by the Company;

j. file or otherwise pursue any litigation on behalf of the Company in another forum;

k. enter into, engage in, or perform under any transaction with any manager or officer of the Company where the aggregate amount of fees payable to any such person would reasonably be expected to exceed \$35,000, other than pursuant to a contract to which the Company was a party prior to noon Eastern Standard Time on November 12, 2023;

l. hire, terminate the employment of, or modify the compensation, severance, or benefits payable to any manager or officer of the Company;

m. hire a financial advisor or investment banker for the Company, or use the services of any financial advisor or investment banker other than pursuant to a contract to which the Company was a party prior to noon Eastern Standard Time on November 12, 2023;

n. disclose any confidential information of the Company or authorize the disclosure of any confidential information of the Company, other than to counsel who have entered an appearance in this Action, when disclosure is protected by an applicable privilege or protection other than that exclusively held by the Company, or as permitted by the Company's Limited Liability Agreement;

o. disclose any confidential information of the Company or authorize the disclosure of any confidential information of the Company (except as permitted in ¶ 5(n)), without: (i) the protection of a confidentiality

agreement or order approved by the Court; and (ii) identifying the principal party to whom confidential information will be disclosed at least two (2) business days prior to disclosure if practicable, and in any event within three (3) business days of disclosure, and upon request making the information shared available to the Status Quo Managers;

p. destroy or remove from the premises of the Company any Company property, assets, books, or records, or proprietary information, outside of the ordinary course of business in accordance with past practices, other than the collection of documents required pursuant to valid legal process after providing at least five business (5) days' notice to all Status Quo Managers;

q. maintain, store, record, or keep books or records or proprietary information of the Company in a manner other than that practiced by the Company historically including, without limitation, maintaining the official unit ledger, bank records other than duplicate records, official payroll information, or tax records in a location other than on the premises, servers, or other electronic storage locations of the Company or its authorized outside counsel or accountant;

r. other than duplicate records, remove the books or records or proprietary information of the Company, including, without limitation, the official unit ledger, bank records, official payroll information, or tax records;

s. destroy any electronic records of the Company, including, without limitation, electronic communications, with the exception of routine deletion of records that are unrelated to (i) any anticipated, pending, or threatened litigation, including without limitation the above-captioned action, or (ii) control of the Company;

t. change the capital structure of the Company, including, without limitation, through the issuance or cancelation of units, the registration of units, or through alteration or modification of the units ledger;

u. dissolve or liquidate the Company or enter into a plan of partial or full dissolution or liquidation;

v. cause the Company to make payment to counsel for the Company, any Company Affiliate, or any individual manager or officer of the Company, other than (i) to counsel representing the Company or a Company Affiliate in litigation pending as of noon Eastern Standard Time on November 12, 2023, or (ii) pursuant to a contract for services related to managers' and officers' insurance, Company bylaws, and indemnification agreements to

which the Company was a party prior to noon Eastern Standard Time on November 12, 2023;

w. declare any dividend or distribution with respect to the units of the Company;

x. change the registration of the Company;

y. prevent, obstruct, or interfere with the ability of any representatives of a Party to this Action, including with any bona fide third-party investors, funders, and their representatives, to access the property or facilities of any affiliate of the Company that is wholly-owned, controlled, or majority-owned by the Company;

z. authorize, agree to, permit, or take, directly or indirectly, any (i) legally binding commitment with respect to, or agreeing to do, any of the foregoing or (ii) other action that is outside the routine day-to-day operations of the Company; or

aa. take any action by written consent, unless approved by a majority of the Status Quo Managers.

6. During the pendency of this Action, unless otherwise addressed in this First Amended Status Quo Order, any determination or action by the Company and any manager, officer, employee, unitholder, or agent of the Company, when acting in those capacities, requires majority approval by the Status Quo Board or Court

approval insofar as the legitimacy of the determination or action depends, in whole or part, on any provision of the Company's Limited Liability Company Agreement, dated April 16, 2021, that is inconsistent with its counterpart or lacks a counterpart in the Amended and Restated Limited Liability Company Agreement, dated 2023, or vice versa.¹

7. During the pendency of this Action, any meetings of the Status Quo Board shall adhere to the following procedures governing those meetings and the conduct of its business:

a. Dr. Shailesh Upreti shall serve as Chairman of the Status Quo Board;

b. all meetings require (unless advance, unanimous written waiver by the Status Quo Managers is obtained), at minimum, forty-eight (48) notice to all Status Quo Managers, and the notice of any meeting must include an agenda, including notice of any resolution(s) that may be called for a vote;

c. any proposed changes to a Status Quo Board meeting's agenda, including, without limitation, any additional or modified resolution(s) that

¹ The Parties dispute which of these agreements is effective and operative. In submitting this proposed First Amended Status Quo Order, the Parties agree that no Party is waiving or modifying any claim, defense, demand, action, suit, or objection it may have that refers or relates to these agreements.

may be called for a vote, requires twenty-four (24) hour notice to all Status Quo Managers;

d. no matter will be discussed or considered during a Status Quo Board meeting that was not properly noticed in accordance with ¶ 7(b)-(c);

e. the only persons authorized to attend the Status Quo Board meetings, beyond the Status Quo Managers, are representatives for the Company's Unitholders and authorized Board Observers (together, with the Status Quo Managers, the "**Meeting Participants**"), as well as the Meeting Participants' counsel;

f. the Company's Unitholders shall receive at least twenty-four (24) hour email notice of any Status Quo Board meeting unless the Unitholders consent to waive such notice requirement at the request of the Status Quo Board due to exigent circumstances, the consent for which shall not be unreasonably withheld;

g. within twenty-four (24) hours of entry of this First Amended Status Quo Order, the Company's Unitholders shall provide the Status Quo Managers the email address(es) to which notice pursuant to Section 7(f) should be directed;

h. no representative for the Meeting Participants, or their counsel, will be denied the opportunity to state their position(s) and objection(s) regarding any matter before the Status Quo Board on the record;

i. all meetings or discussions involving the Status Quo Managers, acting in their capacities on the Status Quo Board, shall be recorded using Zoom or an equivalent technology, and the recording shall be made available to all Status Quo Managers within twenty-four (24) hours of a meeting's conclusion; and

j. the Company shall not have a Secretary during the pendency of this Action; and

k. the recordings of the Status Quo Board shall serve as its minutes.

8. The parties to the Action will not make or cause others to make, publish, or communicate to any person or entity or in any forum any negative, personal, defamatory, or disparaging remarks, comments, or statements concerning the Company or the other party to the Action, or any of its employees, officers, and existing and prospective customers, suppliers, investors, lenders and other associated third parties. The foregoing shall not, however, abrogate the litigation privilege in this Action or any other action by and between the parties.

9. The parties to the Action are authorized to waive the restrictions imposed by the Order on a case-by-case basis by written agreement. The parties

shall notify the Court of any waivers to the application of this Order by providing the Court with the written waiver(s) of the restriction(s).

10. Nothing in this Order shall govern or otherwise impede the governance or management of (a) Imperium3 New York, Inc. or (b) any other affiliate of the Company that is directly or indirectly wholly-owned, controlled, or majority-owned by the Company or any manager, officer, employee, partner, member, or agent of any such affiliate (each of the foregoing (a) and (b), a “**Company Affiliate**”).

11. Nothing in this Order shall be deemed (a) to modify, alter or otherwise impair the rights of any non-party, including, without limitation, any member or creditor or counterparty to a contract or any receiver, trustee, custodian, sequestrator, conservator or similar official appointed for the Company or any Company Affiliate, in their capacity as such, (b) to restrict the rights of any non-party to take any action that is permitted pursuant to any contract or other law applicable to the Company or any Company Affiliate, or (c) to establish this Court’s jurisdiction over the same. This Order is not and shall not be deemed to be consent or acquiescence to any actions taken or to be taken by the Status Quo Managers and is without prejudice to the claims asserted by the parties in the Action.

Chancellor

This document constitutes a ruling of the court and should be treated as such.

Court: DE Court of Chancery Civil Action

Judge: Kathaleen St Jude McCormick

File & Serve

Transaction ID: 71718510

Current Date: Jan 03, 2024

Case Number: 2023-1168-KSJM

Case Name: Charge CCCV LLC v. Frank Poullas, et al.

Court Authorizer: Kathaleen St Jude McCormick

/s/ Judge Kathaleen St Jude McCormick