

IN THE OF MATTER OF  
THE SECURITIES LEGISLATION  
OF ALBERTA, BRITISH COLUMBIA, MANITOBA, NEW BRUNSWICK,  
NEWFOUNDLAND, NOVA SCOTIA, ONTARIO, PRINCE EDWARD ISLAND AND  
SASKATCHEWAN

AND

IN THE MATTER OF  
THE MUTUAL RELIANCE REVIEW SYSTEM FOR  
EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF  
ITEC-MINERAL INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of the provinces of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan (the "Jurisdictions") has received an application from ITEC-Mineral Inc. ("ITEC" or the "Corporation") for a decision pursuant to the securities legislation (the "Legislation") of the Jurisdictions that the issue by ITEC of common shares ("Common Shares") of ITEC, in satisfaction of interest and principal amounts owing in respect of previously issued 9.5% convertible unsecured subordinated debentures (the "Debentures") of ITEC, to be made to holders of the Debentures, shall not be subject to the "registration requirement" (the "Registration Requirements") or the "prospectus requirement" (the "Prospectus Requirements") of the Legislation, as such terms are defined in National Instrument 14-101;

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS ITEC has represented to the Decision Makers that:

1. ITEC is a corporation incorporated under the *Companies Act* (Quebec) on September 23, 1987 under the name "Orphèe Resources Inc." On November 15, 1994, in connection with a reverse take-over of the Corporation, then having the name ITEC-Mineral Inc., the Corporation's articles were amended to, among other things, change the name of the Corporation to its current name. ITEC is presently engaged principally in the business of the reclamation of mine tailing waste sites.

2. ITEC is a reporting issuer, or the equivalent, in each of the provinces of Canada and is not in default of any of the requirements of the Legislation of any Jurisdiction. The head office and registered office of ITEC is in Quebec.

3. The authorized share capital of ITEC consists of an unlimited number of common shares ("Common Shares"). As of August 10, 2000, there were approximately 12,307,009 Common Shares that were issued and outstanding.

4. The Common Shares are listed and posted for trading on The Toronto Stock Exchange (the "TSE").

5. The Debentures were issued on September 25, 1997 as part of an offering of units (the "Units") by ITEC. Each Unit consisted of:

(i) \$800 principal amount of Debentures;

(ii) 160 warrants ("Warrants") to purchase an adjustable number of Common Shares; and

(iii) a deferred payment receipt, evidencing the right to acquire a further \$200 principal amount of Debentures and a further 40 Warrants.

6. The securities comprising the Units were issued by ITEC pursuant to a prospectus (the "Prospectus") dated September 10, 1997, which was filed with the securities regulatory authority or regulator (the "Securities Regulators") in each of the provinces of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Ontario, Quebec and Saskatchewan, and, in respect of which receipts were obtained therefor, under the applicable securities legislation.

7. The Debentures were issued under a trust indenture (the "Trust Indenture") dated September 25, 1997 made between ITEC and Montreal Trust Company (the "Trustee").

8. The total principal amount owing in respect of outstanding Debentures is \$16,552,000, of which \$13,241,600 principal amount will mature on the first business day following September 25, 2002 and the remaining \$3,310,400 principal amount will mature on the first business day following September 25, 2003.

9. Before the 1999 Debenture Amendments and the 2000 Debenture Amendments referred to below (collectively, the "Debenture Amendments"), the Trust Indenture provided that:

(i) the principal amount under the Debentures was convertible, at the option of the holder, at any time prior to maturity, into Common Shares, at a conversion price of \$1.25 per Common Share; and

(ii) in the event that the weighted-average trading price of the Common Shares on the TSE for a 20-day trading period was at least \$3.00 (the "Trading Price

Condition Trigger Price"), the Debentures were convertible by the Trustee, on behalf of the Corporation, into Common Shares.

10. It is a term of the Debentures that ITEC pay interest semi-annually at an annual rate of 9.5 per cent. The first two semi-annual payments due under the Debentures (being the payment due on March 25 and September 25, 1998) were paid when due. The interest payments due on March 25, 1999, September 29, 1999 and March 25, 2000 have not been paid and remain in arrears.

11. On March 25, 1999, ITEC requested that the holders of its Debentures authorize postponement of the interest payment under the Debentures then due on March 25, 1999 until September 25, 1999. Effective as of April 27, 1999, the holders of the requisite aggregate principal amount of the Debentures authorized the postponement.

12. On September 17, 1999, ITEC announced that it was not in the financial position to satisfy the interest payments under the Debentures which were then due on September 25, 1999, (being the interest payment due on September 25, 1999 and the March 25, 1999 interest payment which had been postponed).

13. At a meeting (the A1999 Meeting") held on December 13, 1999, holders of the requisite aggregate principal amount of Debentures approved, subject to any requisite regulatory approval, various amendments to the Trust Indenture (together, the "1999 Debenture Amendments"), described in a management information circular dated December 13, 1999 that was sent by ITEC to holders of the Debentures and filed with the Securities Regulators, including the following.

(i) amendments providing for the satisfaction of interest payments due to the holders of Debentures on March 25, 1999 and September 25, 1999, and the payment of the accumulated interest on such interest payments (the "Accumulated Interest"), by the issue by ITEC of such number of Common Shares as is determined by dividing the Aggregate dollar amount of the interest payments due on March 25, 1999 and September 25, 1999 plus the Accumulated Interest" by the greater of \$0.15 per Common Share or the weighted-average trading price of the Common Shares on the TSE for the 20 trading days preceding the date of the approval by ITEC's shareholders of the 1999 Debenture Amendments";

(ii) an amendment to provide that ITEC have the option to satisfy future interest payments under the Debenture either in cash, or, through the issue of Common Shares, with the number of Common Shares to be issued in satisfaction of any such interest obligations determined by dividing "the aggregate interest payment then due" by "the greater of \$0.15 per Common Share or the weighted average trading price of the Common Shares on the TSE in the 20 trading days preceding the date of payment of interest";

(iii) an amendment which would result in the required repayment of principal under the Debentures in any year at and following maturity being limited to 40 per cent of ITEC's net cash flow (defined for such purposes to mean cash flow

generated by the operating activities of ITEC within the meaning of the Handbook of Canadian Institute of Chartered Accountants), and, subject to a further condition that no payment would be made unless net cash flow in a particular financial year was in excess of \$500,000, provided that if the amount in any fiscal year was not sufficient to satisfy the principal amount outstanding on the Debentures, the amount distributable in respect of the year would be distributed on a *pro rata* basis to holders with any deficiency being carried forward to subsequent years until such time as the principal amount of the Debentures was repaid in full; and

(iv) an amendment resulting in a change in the price at which Common Shares were convertible into Common Shares, at the option of the holder, from \$1.25 to \$0.65, and, a change in the Trading Price Condition Trigger Price from \$3.00 to \$1.00.

14. The 1999 Debenture Amendments were approved by the holders of Common Shares at a special meeting of the holders that was held on December 14, 1999.

15. On August 10, 2000, the closing price for the Common Shares on the TSE, as reported by the TSE, was \$0.32 per Common Share.

16. ITEC currently has no operating revenue or cash flow. The 1999 Debenture Amendments were designed, among other things, to reduce the risk of ITEC ultimately not being able to make payments due under the Debentures by, among other things, encouraging holders to convert their Debentures into Common Shares, and, providing for a reduction in the conversion price in consideration for the agreement by holders of the Debentures to waive past defaults by ITEC and permit ITEC to satisfy future interest amounts owing by the issue of Common Shares.

17. As of June 2, 2000, holders of the requisite aggregate principal amount of Debentures approved further amendments (the "2000 Debenture Amendments") to the terms of the Debentures to permit ITEC to satisfy the aggregate principal amount of \$16,532,000 then outstanding in respect of the Debentures by converting these Debentures into Common Shares (the "Principal Shares"), at a conversion price of 654 per Common Share, so that, upon the issuance of the Principal Shares, and the issuance of Common Shares for all outstanding interest amounts (the "Interest Shares") owing in respect of the Debentures in accordance with the 1999 Debenture Amendments, ITEC will have satisfied all of its obligations under the Debentures.

18. Immediately upon receipt of this Decision, ITEC intends to satisfy all of its obligations in respect of outstanding Debentures by issuing to the holders:

(1) an aggregate of 25,433,846 Principal Shares; and

(2) an aggregate of 14,863,613 Interest Shares.

19. ITEC has scheduled an annual and special meeting (the "Special Meeting") of its shareholders for August 21, 2000 to, among other things, approve a resolution authorizing the purchase by

ITEC of all of the issued and outstanding shares of Electromed Imaging Inc. ("Electromed"), a corporation engaged in the business of medical technology, in consideration for the issue by ITEC of 22,727,273 Common Shares, representing 60 per cent of Common Shares after giving effect to the issuance of Common Shares referred to in paragraph 18, above.

20. The management information circular (the "Circular") of ITEC which accompanied the notice of the Special Meeting that was sent by ITEC to the holders of its Common Shares, and filed with Securities Regulators, contains prospectus-level disclosure in respect of Electromed and ITEC's acquisition of Electromed, which, as the Circular explains, will be accounted for as a reserve take-over.

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers pursuant to the Legislation is that the Registration Requirements and Prospectus Requirements shall not apply to the issue by ITEC of Common Shares, that are Principal Shares or Interest Shares referred to in paragraph 18, above, to holders of then outstanding Debentures, provided that, in each case, the first trade in any Common Shares acquired by the holder of a Debenture pursuant to this Decision in a Jurisdiction shall be a distribution under the Legislation (the "Applicable Legislation") of the Jurisdiction, unless:

(i) at the time of the first trade, ITEC is a reporting issuer, or the equivalent, under the Applicable Legislation and has been a reporting issuer, or the equivalent, under the Applicable Legislation for at least twelve months;

(ii) disclosure of the corresponding prior issuance of the Common Shares has been made to the Decision Maker under the Applicable Legislation;

(iii) if, in respect of the first trade, the seller is in a "special relationship" with ITEC (where such expression is defined in the Applicable Legislation), the seller has reasonable grounds to believe that ITEC is not in default of any requirement of the Applicable Legislation;

(iv) the first trade is not a trade from the holdings of any person or company holding a sufficient number of securities to affect materially the control of ITEC, but any holding of more than 20 per cent of the outstanding voting securities of ITEC shall, in absence of evidence to the contrary, be deemed, for these purposes, to affect materially the control of ITEC; and

(v) no unusual effort is made to prepare the market or to create a demand for the Common Shares forming the subject matter of the first trade and no extraordinary commission or consideration is paid in respect of the first trade.

DATED at Toronto, this 31<sup>st</sup> day of August, 2000.

"Howard I. Wetson" "R. Stephen Brown"

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Issue of common shares by issuer to holders of its debentures, in satisfaction of the interest and principal amounts owing in respect of the debentures, exempted from registration and prospectus requirements - Issuer has no current operating revenue or cash flow - First trades in common shares acquired pursuant to decision made subject to resale restrictions corresponding to subsection 72(5) of the Ontario Act - Debentures were originally issued pursuant to a prospectus.

Applicable Ontario Statute

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25, 53, 72(5).