

CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

No: 500-11-042345-120

SUPERIOR COURT  
(Commercial Division)  
(Sitting as a court designated pursuant to the  
*Companies' Creditors Arrangement Act*,  
R.S.C. 1985, c. C-36)

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IN THE MATTER OF THE PROPOSED PLAN OF  
COMPROMISE AND ARRANGEMENT OF:

AVEOS FLEET PERFORMANCE INC./  
AVEOS PERFORMANCE AÉRONAUTIQUE INC.

And

AERO TECHNICAL US, INC.

Insolvent Debtors/Petitioners

and

FTI CONSULTING CANADA INC.

Monitor

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**NINTH REPORT OF THE CHIEF RESTRUCTURING OFFICER TO THE COURT**

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**I. INTRODUCTION**

1. On March 19, 2012, Aveos Fleet Performance Inc. ("Aveos") and Aero Technical US, Inc. ("Aero US" and, together with Aveos, the "Company" or the "Petitioners") filed a petition under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "CCAA"). An initial order (as subsequently amended and restated, the "Initial Order") was made by the Honourable Mr. Justice Schragger of the Superior Court of Quebec (Commercial Division) (the "Court"), granting, inter alia, a stay of proceedings against the Petitioners until April 5, 2012 (as subsequently extended by further orders until February 1<sup>st</sup>, 2013, the "Stay Period"), and appointing FTI Consulting Canada Inc. as monitor of the Petitioners (the "Monitor"). The proceedings commenced by the Petitioners under the CCAA will be referred to herein as the "CCAA Proceedings".
2. On March 20, 2012, an Order for the Appointment of a Chief Restructuring Officer (the "CRO Order") was made by the Court, appointing Mr. Jonathan Solursh as chief restructuring officer of the Petitioners (collectively, with R.e.l. group inc. ("REL"), the "CRO").
3. The purpose of this report is to:

- a) advise the Court as to the details of the transaction entered into as between Aveos and Lockheed Martin Canada Inc. ("LM Canada" or the "Purchaser") with respect to the sale of certain assets of Aveos' Engine Maintenance Division ("EMC"); and
  - b) seek the Court's approval for the transaction described above.
4. In preparing this report, the CRO has relied upon unaudited financial information of the Petitioners, the Petitioners' books and records, certain financial information prepared by the Petitioners and discussions with management and employees. The CRO has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information. Future oriented financial information reported or relied on in preparing this report is based on management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.
  5. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

## **II. SALE OF THE EMC**

6. The CRO, on behalf of his team and the remaining employees of Aveos, is pleased to report to this Honourable Court that Aveos has entered into an agreement which contemplates the completion of a series of transactions, subject to Court Approval, that will lead to the restart of the EMC business. Based on initial business plans formulated by LM Canada, it is the CRO's understanding that this restart could potentially entail the employment of up to 200 former Aveos employees. The agreement and proposed transactions are more fully described in this report.
7. As previously discussed in various CRO reports, under the direction of the CRO, Aveos marketed the EMC business pursuant to the Court approved Divestiture Process ("DP"), which was conducted with the assistance and oversight of the Monitor over the course of several months in the spring and summer of 2012. The DP was designed to facilitate an en bloc, going concern sale of the three divisions of Aveos to the extent possible. Aveos' Components division was sold substantially as a going concern, whereas the Airframe division and the EMC did not attract suitors who were interested in restarting those businesses. Ultimately, the Airframe division was liquidated through asset sales and auctions held in August 2012. Throughout the DP, no parties expressed a serious interest in buying the EMC business as a whole, as reported in the Fifth Report of the CRO dated July 25, 2012 (the "Fifth Report").
8. However, after the Court authorized a liquidation sale of the EMC movable assets on July 26, 2012, one significant party came forward and expressed an interest in the business and, following execution of a non-disclosure agreement, commenced exploratory discussions with the CRO and Aveos and subsequently undertook extensive due diligence. This party, Kelly Aviation Center LP ("Kelly"), a subsidiary of Lockheed Martin Corporation, the parent of both Kelly and LM Canada ("LM" and, collectively with Kelly and LM Canada, "LMC"), executed a non-disclosure agreement with Aveos on September 5, 2012 (the "NDA"), and began its due diligence after that time. Given the potential benefits of the transaction being contemplated, Aveos agreed to enter into discussions with LMC notwithstanding the fact that the process started after the conclusion of the dates set out in the DP and after Court approval, in July 2012,

of a Liquidation Services Agreement (the "Maynards LSA") with Maynards Industries Ltd. and its partners (together, "Maynards").

9. Throughout the due diligence period, LMC made numerous visits to the EMC, engaging approximately twenty different LMC representatives and its Canadian legal counsel. Aveos also had a team of its employees and a representative from REL visit the Kelly engine repair facility in San Antonio, Texas in order to help with the development of the EMC restart plan.
10. Through the due diligence period, various Aveos employees, along with members of the REL team, have been working diligently and in a cooperative fashion to assist LMC in developing a restart business case. The CRO and his team commend the efforts of the Aveos management and staff who, in the face of an uncertain future, were steadfast in their support and vision for a restart of the EMC.
11. LM is a global security and aerospace company that employs about 120,000 people worldwide, and had net sales in 2011 of approximately \$46.5 billion. It is a public company that trades on the New York Stock Exchange. LM is involved in a variety of businesses around the world, including the maintenance, repair and overhaul ("MRO") of commercial and military aircraft engines through its subsidiary, Kelly, based in San Antonio, Texas. The EMC is a strategic acquisition to enhance Kelly's current civil and military MRO business, specifically providing it with in-house parts repair capabilities as well as an opportunity to further develop its civil MRO business.
12. The CRO, Aveos and LMC worked with a variety of different parties and stakeholders over the past few months as part of LMC's due diligence process and the development of a viable business case for purchasing and restarting the EMC business. Support and accommodations have been made by:
  - a) the International Association of Machinists & Aerospace Workers ("IAMAW"), who have successfully negotiated and entered into a new collective bargaining agreement with LM Canada according to information provided to Aveos;
  - b) Air Canada, which has agreed to lease certain facilities to LMC and also worked through a variety of issues relating to the leased land on which the EMC building is located, as well as other operational concerns. Air Canada's efforts were helpful in bringing this transaction to fruition;
  - c) Transport Canada, which has shown significant support for a transaction, as it has throughout the DP, including providing a clear road map to recertification as well as resources to fast track the restart of the EMC. Transport Canada has been clear throughout this transaction, as it was in the case of the earlier Components Maintenance Centre transaction, that subject to the counterparty demonstrating capability and competence, it would help as best as it could to see jobs brought back to the former Aveos facilities; and
  - d) the Agent for the Secured Lenders which has been supportive of a de facto extension of the DP (which the CRO notes has had a material cost associated with it, due to ongoing funding of wages, overhead costs and professional fees) in the face of uncertainty over the course of several months as to whether a transaction would be viable.

The CRO is also aware of discussions that have taken place between LMC representatives and the Province of Québec, Aéroports de Montréal (“ADM”), and the federal government; however, the CRO was not a party to these discussions and accordingly is not in a position to comment on the scope and nature of these discussions.

13. LMC and Aveos also worked closely on the investigation of a potential transaction that would have seen a sale of the shares of Aveos to LMC, conditional on the successful implementation of a Plan of Arrangement. In LMC’s final analysis it was determined that the benefits to LMC were not sufficient to overcome the complexities, costs and potential risks of entering into a share sale transaction. The CRO is still exploring other possibilities that could result in the sale of the Aveos shares and necessitate a Plan of Arrangement but this potential sale would be to a party other than LMC.
14. After working with LMC through the due diligence period and determining that an asset sale was the preferable structure for LMC, the CRO negotiated and entered into an asset purchase agreement (the “LMC Agreement”), with the assistance and under the oversight of the Monitor. Pursuant to the LMC Agreement, LM Canada will purchase, substantially on an en bloc basis, the remaining assets comprising the EMC business (the “LMC Transaction”). The LMC Transaction is designed to lead to a restart of the EMC’s operations in the near future. The LMC Agreement takes into account and satisfies the obligations to Maynards pursuant to certain agreements previously entered into with Aveos and LMC, including the Maynards LSA previously approved by this Honourable Court, as further discussed below.

### **III. STRUCTURE OF THE TRANSACTION**

15. The structuring of a transaction with LMC was a fluid and challenging process given the complexity of the transaction and the short timeline involved. Multiple concurrent negotiations were occurring through the final weeks of the development of the LMC Transaction, many of which were critical to the proper structuring of the transactions. Adding to the complexity was the fact that LMC had not decided at the outset if it would purchase the shares of Aveos or just the assets, resulting in both options being considered and pursued concurrently such that, at any time, LMC could elect to either purchase the shares and take advantage of any tax attributes, or simply purchase the assets, as it ultimately did. Overlaid on this dual track structure was the Maynards LSA, which was in effect and subject to certain rigid timelines. In the final result, the parties were able to work through the spider web of issues and conclude on the LMC Transaction.
16. As discussed in the Fifth Report of the CRO, Aveos had entered into the Maynards LSA with respect to the EMC assets located in the EMC building, which allowed Aveos the option to continue seeking an en bloc buyer for the EMC. At the end of the option period, a buyer was not found and the Maynards LSA was approved by this Honourable Court. Pursuant to the Maynards LSA, an auction was scheduled for October 24/25, 2012. As previously noted, Aveos executed the NDA with LMC on September 5, 2012, after the Maynards LSA had been executed and approved.

17. In order to balance the requirements and benefits of the LMC Transaction with the obligations Aveos had to Maynards under the Maynards LSA, an asset purchase agreement was entered into between LMC and Maynards (the "Maynards APA"), with the assistance of the CRO and Aveos, that saw LMC make a material commitment to purchase approximately \$5.0 million of EMC related tooling and equipment. This commitment sufficiently reduced Maynards' risk regarding the net minimum guarantee committed under the Maynards LSA, such that it agreed to postpone the auction process for the EMC until mid-December 2012 in order to give LMC time to complete its due diligence and structure a broader transaction with Aveos and with Maynards (for the remainder of the tooling and equipment).
18. Pursuant to the Maynards APA, Maynards also granted to LMC the option to acquire the remainder of the assets covered by the Maynards LSA. A further extension past mid-December was negotiated by the CRO, allowing Aveos and LMC until the end of January to complete a transaction. A fee of \$25,000 plus \$1,000 a day for each day past January 18, 2013 will be payable to Maynards, as well as Aveos making a concession on certain terms in the Maynards LSA on the calculation of the shared portion of the buyer's premium as consideration for this additional accommodation.
19. On December 21, 2012, following extensive negotiations which lasted well into the night, Aveos and LMC signed the LMC Agreement, under which LM Canada will buy the EMC assets in an en bloc transaction that encompasses the EMC building located at 7171 Boulevard de la Côte Vertu, Montreal, Quebec, the tooling and equipment that was subject to the Maynards LSA, other miscellaneous assets remaining within the EMC building and certain intangible assets, as well as the CF-34 test cell equipment in one of two test cells located in a building across the street from the EMC building which Aveos formerly leased from Air Canada.
20. The obligations of the Purchaser under the LMC Agreement were conditional upon the completion of further due diligence by LMC on or before January 4, 2013. The due diligence condition has now expired and is deemed to have been waived and, as a result, the LMC Agreement is now subject only to Court approval and other standard closing conditions. The Purchaser has also now exercised its option to acquire the remaining machinery, equipment, and other assets that were the subject of the Maynards APA. The closing of the sale of those assets (together with the original purchased assets under the Maynards APA) is to occur concurrently with the closing of the LMC Transaction. The aggregate purchase price payable by the Purchaser for all assets being purchased under the Maynards APA is substantially in excess of the net minimum guarantee amount specified in the Maynards LSA.
21. LM Canada was initially interested in signing a ten year lease (with an option on two five year extensions) for the EMC building. Accordingly, the CRO negotiated a lease with LM Canada under terms acceptable to both parties (the "EMC Building Lease"). To accommodate LMC's operational requirements to take possession of the EMC building as soon as possible, Aveos obtained authority from this Honourable Court on December 14, 2012 to enter into a lease for the EMC building with the knowledge that the lease may be short lived, as LM Canada might have an interest but had not, at the time, committed to buying the EMC building.
22. As events unfolded, LMC determined that its preference was to buy the EMC building outright, but would proceed to lease the building if a sale was not possible. In addition, LMC's need to start its operations on or shortly after January 2, 2013, which had necessitated the amendment

to the Initial Order to allow Aveos to enter into the EMC Building Lease, was re-assessed by LMC resulting in the date being pushed back into mid-January 2013. As a result, Aveos did not enter into the EMC Building Lease with LM Canada, even though its terms, including financial terms, were settled.

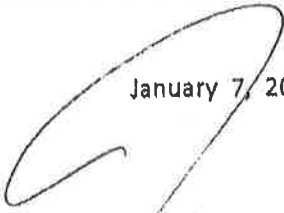
23. As the EMC Building Lease had already been negotiated, and LMC has effectively made a commitment to this project, expended considerable time and effort and incurred significant costs as a result, LMC requested that, in the unlikely event that a sale of the EMC building cannot be completed for any reason, Aveos commit to enter into the EMC Building Lease. In this regard, a side letter to the LMC Agreement that contemplates Aveos entering into the EMC Building Lease in the unlikely event that the sale of the EMC building cannot be completed has been executed by Aveos at LMC's request. This effectively provides LMC with the necessary assurance that, having committed to the purchase of the equipment and other assets and having made other business commitments, it will be in a position to operate from the EMC building effective on closing in mid-January 2013.
24. The EMC building is unique in several respects, one of which is that the land where the building is located is not owned by Aveos, but rather subleased from Air Canada (who, in turn, leases it pursuant to a head lease with ADM). It is a restricted use property by virtue of the conditions of the head lease and sub-lease as well as its very large size and construction (approximately 526,000 square feet as a purpose-built engine MRO facility).
25. The CRO had previously reported that it had been dealing with various real estate brokers to develop a plan to sell the EMC building in due course. While the actual process of selling the building had not yet been implemented, the CRO had gathered enough information from discussions with various real estate brokers, reviewed comparable sales, and performed its own commercial analysis to conclude that the price offered by LMC for the EMC building represents fair value to the stakeholders in that:
  - a) The EMC Building Lease negotiated between LMC and Aveos was, in the CRO's view, a fair market value lease negotiated between two arms' length parties. The CRO used various market comparatives that were reviewed with the Monitor in assessing that the value received under the lease was fair. When LMC determined that it wanted to buy the EMC building, the parties used the EMC Building Lease as a benchmark upon which to apply typical market capitalization rates, in order to assess the sale price. In other words, a calculation that saw the net operating income under the EMC Building Lease divided by market capitalization rates adjusted for the land lease (as opposed to outright ownership of the underlying land) less future holding and sale costs, was used to benchmark the transaction. In the CRO's considered view, this is a good transaction for Aveos;
  - b) It avoids significant ongoing holding costs that include rent under the land lease, property taxes, insurance and maintenance as well as retaining employees to tend to the EMC building for what could conceivably be an extended period of time as a specific use building such as this requires a niche buyer and could take as long as eighteen months or more to sell;
  - c) It eliminates real estate commissions since no brokers are involved in this transaction;

- d) It provides certainty to the stakeholders, including the Secured Lenders, who are funding the ongoing costs, as well as Air Canada and the ADM; and
  - e) LM Canada, as the buyer, delivers a material benefit by rehiring a significant number of former Aveos employees, who are a significant stakeholder in these proceedings.
26. Throughout the DP, the CRO had undertaken efforts to find parties interested in purchasing the EMC division and the EMC building. With the exception of an immaterial offer received (and rejected) early in the process, there was no party willing to step forward in this regard. The most likely alternative scenario for a sale of the EMC building would be to a buyer looking for a specific use suited to the building or to a financial buyer, provided that there was a viable long term lease in place for the use of the building.
27. The CRO is satisfied that the LMC Transaction, as a whole, provides good value to the stakeholders, not only for the reasons mentioned in the preceding paragraphs, but also because the sale of the equipment and other assets under the Maynards LSA exceeds the net minimum guarantee that had been provided by Maynards, and actually achieves what Maynards reasonably expected to recover with respect to total realizations for those assets covered by the LSA.
28. Aveos will require ongoing use of some office space for the CRO team and the Monitor, some storage space within the EMC building, and limited access to certain of the Aveos employees who are expected to be hired by LM Canada after closing. In this regard, Aveos and LM Canada will enter into a Transition Services Agreement under which the office and storage space and services of the employees will be made available to Aveos during a post-closing transition period which is not expected to extend beyond June 30, 2013.

#### **IV. CONCLUSIONS**

29. The CRO and Aveos worked with all material stakeholders throughout the process of negotiating and settling the terms of the LMC Transaction, and it appears that the major stakeholders, including the Secured Lenders and the IAMAW are satisfied with the substance and form of the transaction. Although the LMC Transaction takes place outside of the DP, it follows the same premise as was identified in the DP, which was to allow Aveos an opportunity to divest its operating divisions in a way that would support an en bloc or going concern sale and maximize the results for all stakeholders. The resulting transaction fulfills those goals, including the rehiring of former Aveos employees, in a manner that is consistent with the spirit and intent of the DP.
30. Once again, the CRO, his team and the management of Aveos are satisfied with the outcome achieved for the EMC division and the future potential for the employees and operations of a revitalized EMC business under the direction of LMC. The LMC Transaction has arisen from a complex balance of a variety of interests, and was effected in a short timeframe that falls at the end of a tenuous and uncertain period since Aveos' CCAA filing.
31. The CRO will provide a further report covering other ongoing activities of Aveos before the hearing for the extension of the CCAA proceeding on February 1, 2013.

32. The CRO respectfully submits this Ninth Report in support of the Petitioners' Motion for approval of the LMC Transaction as reported above and a vesting order for the assets to be sold as described in this Report and the Petitioners' Motion.



January 7, 2013

Jonathan Solursh  
Chief Restructuring Officer



**No. 500-11-042345-120**

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**SUPERIOR COURT (Commercial Division)  
DISTRICT OF MONTRÉAL**

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ARRANGEMENT OF:

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and

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Insolvent Debtors/Petitioners

and

**FTI CONSULTING CANADA INC.**

Monitor

and

**WELLS FARGO BANK NATIONAL ASSOCIATION, as Fondé de  
Pouvoir**

and **LOCKHEED MARTIN CANADA INC.**

and **AIR CANADA**

and **AÉROPORTS DE MONTRÉAL**

Mis en causes

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**Me Roger Simard / Me Ari Sorek**

**File: 548732-1**

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**EXHIBIT P-2**

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