

December 21, 2020

In the Matter of  
The Securities Legislation of Saskatchewan and Ontario  
(the **Jurisdictions**)

and

In the Matter of  
The Process for Exemptive Relief Applications in Multiple Jurisdictions

and

In the Matter of  
Information Services Corporation  
(the **Filer**)

### **Decision**

#### **Background**

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application (the **Application**) from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the requirement under:

- (a) Section 12.2 of National Instrument 41-101 *General Prospectus Requirements* (**NI 41-101**), relating to the use of restricted security terms, and section 1.13 and section 10.6 of Form 41-101F1 *Information Required in a Prospectus* (**Form 41-101F1**) and section 1.12 and section 7.7 of Form 44-101F1 *Short Form Prospectus* (**Form 44-101F1**) relating to restricted security disclosure shall not apply to the Class A Limited Voting Shares in the capital of the Filer (**Class A Shares**) (**Prospectus Disclosure Exemption**) in connection with any prospectuses and any amendments thereto that may be filed by the Filer under either of NI 41-101 or National Instrument 44-101 *Short Form Prospectus Distributions* (**NI 44-101**), including a prospectus filed under National Instrument 44-102 *Shelf Distributions* (**NI 44-102**) (collectively, **Prospectuses** and any of which being individually a **Prospectus**); and
- (b) Section 12.3 of NI 41-101 relating to prospectus filing eligibility for distributions of restricted securities shall not apply to distributions of Class A Shares (the **Prospectus Eligibility Exemption**) pursuant to a Prospectus.

The Prospectus Disclosure Exemption and the Prospectus Eligibility Exemption are collectively referred to as the **Exemption Sought**.

The Application also requests a decision that the Application, the supporting materials provided therewith and this decision (collectively, the **Confidential Material**) be kept confidential (the **Confidentiality Relief**) until the earlier of:

- (a) the date on which the Filer files the first Prospectus following the date of this decision;
- (b) the date that the Filer advises the Decision Makers that there is no longer any need for the Confidential Material to remain confidential; and
- (c) the date that is 90 days after the date of this decision.

Under National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* (for a dual application):

- (a) the Financial and Consumer Affairs Authority of Saskatchewan is the principal regulator for the Application; and
- (b) the Filer has provided notice that Section 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied upon in Alberta, British Columbia, Manitoba, Quebec, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Northwest Territories, Yukon and Nunavut (collectively, the **Passport Jurisdictions**); and
- (c) this decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

### **Interpretation**

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102, NI 41-101, NI 44-101 or NI 44-102 have the same meaning if used in this decision, unless otherwise defined.

### **Representations**

This decision is based on the following facts represented by the Filer:

1. The Filer was created by Order in Council as Saskatchewan Land Information Services Corporation, a Saskatchewan provincial Crown corporation, on January 1, 2000, pursuant to *The Crown Corporations Act, 1993* (Saskatchewan) (the **CCA**) and subsequently changed its name to Information Services Corporation of Saskatchewan on November 1, 2000.
2. The CCA ceased to apply to the Filer with the proclamation of *The Information Services Corporation Act* (Saskatchewan) (the **ISC Act**) on May 30, 2013, at which time the Filer continued under *The Business Corporations Act* (Saskatchewan) as Information Services Corporation in accordance with, and subject to, the ISC Act.
3. The registered and head office of the Filer is located at 300 - 10 Research Drive, Regina, Saskatchewan, S4S 7J7.

4. The Filer's authorized share capital consists of an unlimited number of Class A Shares, one Class B Golden Share (the **Golden Share**) and an unlimited number of Preferred Shares, issuable in series (the **Preferred Shares**).
5. As of November 16, 2020, there were 17,500,000 Class A Shares and one Golden Share issued and outstanding. Crown Investments Corporation of Saskatchewan (**CIC**), an agent of the Crown in Right of Saskatchewan and a wholly-owned provincial Crown corporation, owns 5,425,000 (31%) of the issued and outstanding Class A Shares and the one Golden Share. There are no Preferred Shares issued and outstanding.
6. The following is a summary of the rights, privileges restrictions and conditions attached to these securities:
  - (a) **Class A Shares.** Subject to the restrictions described in paragraph 7 below, the holders of the Class A Shares are entitled to one vote per Class A Share on all matters to be voted on by the shareholders at any meetings of shareholders, other than at meetings at which only the holders of another class or series of shares are entitled to vote separately as a class or series. The holders of the Class A Shares are entitled to receive any dividends declared by the Filer in respect of the Class A Shares, subject to the rights of the holders of other classes of shares. The holders of the Class A Shares will be entitled to receive, subject to the rights of the holders of other classes of shares, the remaining property and assets of the Filer available for distribution, after payment of liabilities, upon the liquidation, dissolution or winding-up of the Filer, whether voluntary or involuntary.
  - (b) **Golden Share.** As the holder of the sole Golden Share, CIC is entitled to receive notice of and to attend all meetings of shareholders including meetings of any class or series thereof, but does not have the right to vote at any such meeting other than a meeting of the holder of the Golden Share as a class. The holder of the Golden Share does not have the right to vote separately as a class, except: (i) to veto a transfer of the Filer's registered office outside of Saskatchewan; (ii) to veto a transfer of all or any part of the Filer's head office operations, or all or any part of the functions constituting the Filer's head office operations, outside of Saskatchewan; (iii) to veto the sale, lease or exchange of all or substantially all of the Filer's property; (iv) on any proposal to apply for a continuance in a jurisdiction outside of Saskatchewan; (v) on any proposal to amend the Filer's articles; or (vi) as otherwise provided by law. The holder of the Golden Share does not have the right to receive any dividends declared by the Filer or to participate in the distribution of the remaining property and assets of the Filer available for distribution, after payment of liabilities, upon the liquidation, dissolution or winding-up of the Filer, whether voluntary or involuntary. The holder of the Golden Share has no pre-emptive, redemption, purchase or conversion rights in respect of such share. The Golden Share may be transferred to a Crown corporation existing under the CCA, a department, ministry or agency of the Government of Saskatchewan or any other agent of the Crown in right of the Province of Saskatchewan, but is otherwise non-transferrable.

- (c) **Preferred Shares.** The Preferred Shares will be issuable at any time from time to time in one or more series. The board of directors of the Filer (the **Board**) will be authorized to fix before issue the number of, the consideration per share of, the designation of, and the provisions attaching to, the Preferred Shares of each series, which may include voting rights and other provisions attaching to the Preferred Shares or shares of the series. Notwithstanding the forgoing, no series of Preferred Shares shall provide for the right to vote in connection with any election of directors of the Filer. The Preferred Shares of each series will rank on parity with the Preferred Shares of every other series and will be entitled to preference over the Class A Shares, the Golden Share and any other share ranking junior to the Preferred Shares with respect to the distribution of any property or assets in the event of the Filer's liquidation, dissolution or winding-up, whether voluntary or involuntary.
7. The rights and privileges of the Class A Shares are subject to a number of limitations, as follows:
- (a) **Appointment of Directors by Province of Saskatchewan.** Both the Filer's constating documents and the ISC Act provide that, in lieu of voting the Class A Shares of the Filer held by the Government of Saskatchewan on any resolution electing directors to the Board, the Lieutenant Governor in Council of the Province of Saskatchewan has the right to appoint that number of members to the Board equal to CIC's *pro rata* share of the issued and outstanding Class A Shares (rounded to the nearest whole number) (the **Proportionate Board Appointment Right**), but always subject to a minimum of two directors (the **Minimum Board Appointment Right**).
- (b) **Limit on Amount of Holdings.** Both the Filer's constating documents and the ISC Act contains provisions imposing limits on ownership, including joint ownership, of the Class A Shares and any other voting securities which might subsequently be issued. Specifically, except the Government of Saskatchewan or an agent of the Government of Saskatchewan, no person, alone or together with associates (associates being determined according to specific rules in the ISC Act), may hold, beneficially own or control, directly or indirectly, other than by way of security only or for purposes of distribution by an underwriter, voting securities to which are attached more than 15% of the votes attached to the issued and outstanding voting shares (the **Ownership Restriction**). Preferred Shares, if any, will not qualify as voting shares for the purposes of the ISC Act by virtue of not being entitled to vote in connection with the election of directors of the Filer. In order to give effect to the Ownership Restriction, the ISC Act and the regulations thereunder contain provisions for the enforcement of the Ownership Restriction, including provisions for suspension of voting rights, forfeiture of rights to dividends and recovery of dividends paid to shareholders holding more than 15% of the votes attached to the issued and outstanding voting shares (i.e. the Class A Shares).
- (c) **Other.** The Filer's constating documents and the ISC Act place certain other restrictions on ISC, including a prohibition against transferring head office

operations, or all or any part of head office operations outside of Saskatchewan and a prohibition against the Filer's articles or by-laws containing provisions inconsistent with the provisions included in the ISC Act. Further, the offices at which substantially all of the Filer's executive officers (and, in any event, the offices for the chief executive officer, chief operating officer, chief financial officer and president) and senior officers are based must remain in the Province of Saskatchewan.

8. The Filer is a reporting issuer in the Jurisdictions and the Passport Jurisdictions and its Class A Shares are listed and posted for trading on the Toronto Stock Exchange under the symbol "ISV".
9. The Filer is not in default of any requirements under applicable securities legislation in any jurisdiction of Canada.
10. Subsection 12.2(4) of NI 41-101 requires that a "class of securities that is or may become restricted securities must be referred to in a prospectus using a term or a defined term that includes the appropriate restricted security term".
11. Section 12.3 of NI 41-101 requires that an issuer must not file a prospectus under which restricted securities, subject securities or securities that are, directly or indirectly convertible into, or exercisable or exchangeable for, restricted securities or subject securities, are distributed unless: (a) the distribution has received prior majority approval of the securityholders of the issuer in accordance with applicable law, including approval on a class basis if required and excluding any votes attaching at the time to securities held, directly or indirectly, by affiliates of the issuer or control persons of the issuer; or (b) at the time of any restricted security reorganization related to the securities to be distributed: (i) the restricted security reorganization received prior majority approval of the securityholders of the issuer in accordance with applicable law, including approval on a class basis if required and excluding any votes attaching at the time to securities held, directly or indirectly, by affiliates of the issuer or control persons of the issuer; (ii) the issuer was a reporting issuer in at least one jurisdiction; and (iii) no purposes or business reasons for the creation of restricted securities were disclosed that are inconsistent with the purpose of the distribution.
12. Pursuant to NI 41-101, a "restricted security" means an equity security that is not a preferred security of the issuer if any of the following apply: (a) there is another class of securities of the reporting issuer that carries a greater number of votes per security; (b) the conditions attached to the class of equity securities, the conditions attached to another class of securities of the issuer, or the issuer's constating documents have provisions that nullify or significantly restrict the voting rights of the equity securities; (c) the issuer has issued another class of equity securities that entitle the owners of securities of that other class to participate in the earnings or assets of the issuer to a greater extent, on a per security basis, than the owners of the first class of equity securities; or (d) except in Ontario and British Columbia, the regulator determines that the equity security is a restricted security.

13. The provisions of Part 12 *Restricted Securities* of NI 41-101 do not apply to, among other things, securities that are subject to a restriction, imposed by any law governing the reporting issuer, on the level of ownership of the securities by a person, company or combination of persons or companies, but only to the extent of the restriction (the **Restricted Security Exemption**).
14. The Restricted Security Exemption is available to the Filer in respect of the Ownership Restriction insofar as such restriction is contained in the ISC Act and therefore imposed by a law governing the Filer.
15. However, no such exemption is available in respect of the implications of the Proportionate Board Appointment Right and the Minimum Board Appointment Right, which would also constitute the Class A Shares as restricted securities by virtue of being conditions attached to the securities or contained in the Filer's constating documents which significantly restrict the voting rights of the holders of Class A Shares.
16. As a result, absent the Prospectus Disclosure Exemption, pursuant to section 12.2 of NI 41-101 (and the related requirements of section 1.13 and section 10.6 of Form 41-101F1 or, in the case of a short form prospectus, the requirements of section 1.12 and section 7.7 of Form 44-101F1), the Filer would be required to use the appropriate restricted security term to describe the Class A Shares in any Prospectus. Such disclosure could be confusing and misleading to market participants in light of the terms and conditions of the Class A Shares insofar as none of the restricted security terms referred to in NI 41-101, namely "non-voting security", "restricted voting security" and "subordinate voting security", accurately describes the Class A Shares.
17. The Filer previously sought and obtained a prospectus disclosure exemption in connection with the Filer's initial public offering, the final prospectus for which being dated June 27, 2013 (the **IPO Prospectus**). That prospectus disclosure exemption only applied to the IPO Prospectus.
18. In connection with the IPO Prospectus, the Filer also sought and obtained a prospectus eligibility exemption to permit it to file the IPO Prospectus on the basis that the Filer and the Class A Shares thereof were created by statute and therefore not amenable to the majority approval of securityholders in advance of the initial public offering and that purchasers of Class A Shares under the IPO Prospectus would receive full, true and plain disclosure of all material facts relating to the Class A Shares prior to purchasing such securities and thus would ostensibly have voted in favour of the distribution by virtue of their participation therein. Absent that relief, the Filer would not have been permitted to file the IPO Prospectus under which the Class A Shares were distributed because it had not received prior majority approval of its securityholders to the proposed distribution. That prospectus eligibility exemption, granted by way of the issuance of the receipt for the IPO Prospectus, only applied to the IPO Prospectus.
19. Based upon the same rationale, the Filer is seeking that the Exemption Sought apply to all future Prospectuses for which the conditions of this decision continue to apply.

## Decision

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of each Decision Maker under the Legislation is that the Exemption Sought is granted provided that at the time the Filer relies on the Exemption Sought:

- (a) representations 6-7, above, continue to apply;
- (b) the Filer has no restricted securities (as defined in section 1.1 of NI 41-101) issued and outstanding other than the Class A Shares; and
- (c) the Prospectuses include disclosure consistent with representations 6-7 above.

The further decision of the Decision Makers is that the Confidentiality Relief is granted until the occurrence of the earliest of the following:

- (a) the date on which the Filer files the first Prospectus following the date hereof;
- (b) the date on which the Filer advises the Decision Makers that there is no longer any need to hold the Confidential Material in confidence; and
- (c) the date that is 90 days after the date of this decision.



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