

ACCURAY INC
Form 424B3
May 09, 2011

Use these links to rapidly review the document

[TABLE OF CONTENTS](#)

[Table of Contents](#)

Filed Pursuant to Rule 424(b)(3)
Registration No. 333-173344

ACCURAY INCORPORATED
1310 Chesapeake Terrace
Sunnyvale, California 94089

TOMOTHERAPY INCORPORATED
1240 Deming Way
Madison, Wisconsin 53717

PROSPECTUS

PROXY STATEMENT

To the Shareholders of TomoTherapy Incorporated:

A Merger Proposal Your Vote Is Very Important

On March 6, 2011, the board of directors of TomoTherapy Incorporated ("TomoTherapy") unanimously approved and adopted a merger agreement among TomoTherapy, Accuray Incorporated ("Accuray") and Jaguar Acquisition, Inc. ("Merger Sub") that contemplates the merger of Merger Sub with and into TomoTherapy, with TomoTherapy surviving the merger as a wholly owned subsidiary of Accuray. TomoTherapy is sending you this proxy statement/prospectus to ask you to vote for the approval and adoption of the merger agreement.

If the merger agreement is approved and adopted and the merger is subsequently completed, each outstanding share of TomoTherapy common stock will be converted into the right to receive (i) \$3.15 in cash, without interest and less applicable withholding taxes ("cash consideration"), and (ii) 0.1648 shares of Accuray common stock, par value \$0.001 per share ("stock consideration" and, together with the cash consideration, the "merger consideration"). The per share cash consideration and stock consideration are fixed, subject to certain customary anti-dilution adjustments. For example, assuming that 56,188,986 shares of TomoTherapy common stock, which is the number of shares of TomoTherapy common stock expected to be outstanding on May 10, 2011, the record date for the special meeting, are outstanding immediately prior to the merger, Accuray would issue an aggregate of approximately 9,259,945 shares of Accuray common stock in the merger. After careful consideration, TomoTherapy's board of directors has unanimously determined that it is advisable and in the best interest of the shareholders of TomoTherapy for TomoTherapy to enter into the merger agreement and consummate the transactions contemplated by the merger agreement, and that the merger consideration provided in the merger agreement is fair to the shareholders of TomoTherapy who will be entitled to receive such merger consideration. **TomoTherapy's board of directors unanimously recommends that you vote "FOR" the approval and adoption of the merger agreement.** The merger cannot be completed unless the holders of at least a majority of all the votes entitled to be cast by holders of outstanding shares of TomoTherapy common stock vote to approve and adopt the merger agreement. Whether or not you plan to attend the special meeting of shareholders, please take time to vote over the Internet, by telephone or by completing the enclosed proxy card and mailing it in accordance with the instructions on the card. **THE FAILURE OF ANY SHAREHOLDER TO VOTE WILL HAVE THE SAME EFFECT AS A VOTE BY THAT SHAREHOLDER AGAINST THE APPROVAL AND ADOPTION OF THE MERGER AGREEMENT. WHETHER OR NOT YOU PLAN TO ATTEND THE SPECIAL MEETING IN PERSON, WE REQUEST THAT YOU COMPLETE, SIGN, DATE AND RETURN THE ENCLOSED PROXY CARD OR SUBMIT YOUR PROXY BY TELEPHONE OR OVER THE INTERNET PRIOR TO THE SPECIAL MEETING TO ENSURE THAT YOUR SHARES WILL BE VOTED AT THE SPECIAL MEETING.** TomoTherapy and Accuray common stock trade on The NASDAQ Global Select Market ("NASDAQ") under the symbols "TOMO" and "ARAY," respectively.

The accompanying proxy statement/prospectus provides you with detailed information about the special meeting, the merger agreement and the merger. A copy of the merger agreement is attached as Annex A to the accompanying proxy statement/prospectus. **You are encouraged**

Edgar Filing: ACCURAY INC - Form 424B3

to read carefully the accompanying proxy statement/prospectus in its entirety including the section entitled "Risk Factors" beginning on page 29. You may also obtain more information about TomoTherapy and Accuray from documents that each has filed with the Securities and Exchange Commission.

Thank you in advance for your continued support and your consideration of this matter.

Sincerely,

Thomas Rockwell Mackie
Chairman of the Board

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR PASSED UPON THE ADEQUACY OR ACCURACY OF THE DISCLOSURES IN THIS PROXY STATEMENT/PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

This proxy statement/prospectus is dated May 6, 2011, and is first being mailed to shareholders on or about May 9, 2011.

Table of Contents

SOURCES OF ADDITIONAL INFORMATION

This proxy statement/prospectus incorporates by reference important business and financial information about Accuray and TomoTherapy from documents that each company has filed with the Securities and Exchange Commission (the "SEC") but which have not been included in or delivered with this proxy statement/prospectus. For a list of documents incorporated by reference into this proxy statement/prospectus and how you may obtain them, see "Where You Can Find More Information" beginning on page 133.

This information is available to you without charge upon your written or oral request. You can also obtain the documents incorporated by reference into this proxy statement/prospectus by accessing the SEC's website at <http://www.sec.gov>.

In addition, Accuray's filings with the SEC are available to the public on Accuray's website, www accuray.com, and TomoTherapy's filings with the SEC are available to the public on TomoTherapy's website, www.tomotherapy.com. Except as expressly set forth in the section entitled "Where You Can Find More Information," beginning on page 133, information contained on Accuray's website, TomoTherapy's website or the website of any other person is not incorporated by reference into this proxy statement/prospectus, and you should not consider information contained on those websites as part of this proxy statement/prospectus.

Accuray and TomoTherapy will provide you with copies of their respective documents incorporated by reference into this proxy statement/prospectus, without charge, if you so request from:

Accuray Incorporated
1310 Chesapeake Terrace
Sunnyvale, California 94089
Attention: Investor Relations
Telephone Number: (408) 789-4458

TomoTherapy Incorporated
1240 Deming Way
Madison, Wisconsin 53717
Attention: Investor Relations
Telephone Number: (608) 824-2800

If you wish to obtain any of these documents from Accuray or TomoTherapy, you should make your request no later than June 2, 2011, which is five business days before the special meeting, to ensure timely delivery before the special meeting.

Information contained in this proxy statement/prospectus regarding Accuray has been provided by, and is the responsibility of, Accuray, and information contained in this proxy statement/prospectus regarding TomoTherapy has been provided by, and is the responsibility of, TomoTherapy. No one has been authorized to give you any other information, and neither Accuray nor TomoTherapy take responsibility for any information that others may give you. This proxy statement/prospectus is dated May 6, 2011. You should not assume that the information contained in, or incorporated by reference into, this proxy statement/prospectus is accurate as of any date other than that date. Neither TomoTherapy's mailing of this proxy statement/prospectus to TomoTherapy shareholders nor the issuance by Accuray of common stock in connection with the merger shall create any implication to the contrary.

This proxy statement/prospectus does not constitute an offer to sell, or a solicitation of an offer to buy, any securities, or the solicitation of a proxy, in any jurisdiction to or from any person to whom it is unlawful to make any such offer or solicitation in such jurisdiction.

Table of Contents

TOMOTHERAPY INCORPORATED
1240 Deming Way
Madison, Wisconsin 53717

NOTICE OF SPECIAL MEETING OF SHAREHOLDERS

TO BE HELD ON JUNE 9, 2011

NOTICE IS HEREBY GIVEN of a special meeting of shareholders of TomoTherapy Incorporated, a Wisconsin corporation ("TomoTherapy"), to be held on Thursday, June 9, 2011, starting at 8:00 a.m. central daylight time at 1212 Deming Way, Madison, Wisconsin 53717, for the following purposes:

1. To consider and vote on a proposal to approve and adopt the Agreement and Plan of Merger, dated as of March 6, 2011 (as it may be amended from time to time, the "merger agreement"), which provides for, among other things, the merger of Jaguar Acquisition, Inc. ("Merger Sub"), a wholly owned subsidiary of Accuray Incorporated ("Accuray"), with and into TomoTherapy (the "merger"), with TomoTherapy surviving the merger as a wholly-owned subsidiary of Accuray and the conversion of each share of TomoTherapy common stock outstanding immediately prior to the effective time of the merger (other than shares held in the treasury of TomoTherapy or owned, directly or indirectly, by Accuray, Merger Sub or any subsidiary of TomoTherapy) into the right to receive (i) \$3.15 in cash, without interest and less applicable withholding taxes, and (ii) 0.1648 shares of Accuray common stock, par value \$0.001 per share;
2. To consider and vote on a proposal to adjourn the special meeting to a later date or time, if necessary or appropriate, for the purpose of soliciting additional proxies in the event there are insufficient votes at the time of the special meeting to approve and adopt the merger agreement; and
3. To consider and vote on such other business as may properly come before the special meeting by or at the direction of the TomoTherapy board of directors or any adjournment or postponement of the special meeting.

Only shareholders of record at the close of business on May 10, 2011, the record date for the special meeting, are entitled to receive notice of and to vote at the special meeting and at any adjournment or postponement thereof (unless the board of directors fixes a new record date for any such postponed or adjourned meeting). Each shareholder is entitled to one vote for each share of TomoTherapy common stock held by such shareholder of record as of the close of business on the record date.

THE TOMOTHERAPY BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE "FOR" THE APPROVAL AND ADOPTION OF THE MERGER AGREEMENT AND "FOR" THE ADJOURNMENT OF THE SPECIAL MEETING, IF NECESSARY OR APPROPRIATE, FOR THE PURPOSE OF SOLICITING ADDITIONAL PROXIES.

By Order of the Board of Directors,

Brenda S. Furlow
Vice President, General Counsel and Corporate Secretary

May 6, 2011

Regardless of whether you plan to attend the special meeting in person, TomoTherapy requests that you complete, sign, date and return the enclosed proxy card or submit your proxy by telephone or over the Internet prior to the special meeting to ensure that your shares will be voted at the special

Table of Contents

meeting. If you have Internet access, TomoTherapy encourages you to vote over the Internet. Properly executed proxy cards with no instructions indicated on the proxy card will be voted "FOR" the approval and adoption of the merger agreement and "FOR" the adjournment of the special meeting for the purpose of soliciting additional proxies. If you attend the special meeting in person, you may revoke your proxy and vote in person if you wish, even if you have previously returned your proxy card or voted over the Internet or by telephone. Your prompt attention is greatly appreciated. **YOUR VOTE IS IMPORTANT!**

Table of Contents

TABLE OF CONTENTS

	Page
<u>QUESTIONS AND ANSWERS ABOUT THE SPECIAL MEETING AND THE MERGER SUMMARY</u>	i
<u>COMPARATIVE PER SHARE DATA</u>	1
<u>COMPARATIVE PER SHARE MARKET PRICE AND DIVIDEND INFORMATION</u>	11
<u>Market Prices</u>	13
<u>SELECTED HISTORICAL CONSOLIDATED FINANCIAL DATA OF ACCURAY</u>	13
<u>SELECTED HISTORICAL CONSOLIDATED FINANCIAL DATA OF TOMOTHERAPY</u>	15
<u>ACCURAY AND TOMOTHERAPY UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL STATEMENTS</u>	17
<u>RISK FACTORS</u>	19
<u>FORWARD-LOOKING STATEMENTS</u>	29
<u>THE COMPANIES</u>	37
<u>TomoTherapy Incorporated</u>	39
<u>Accuray Incorporated</u>	39
<u>Jaguar Acquisition, Inc.</u>	39
<u>THE SPECIAL MEETING</u>	40
<u>Date, Time, Place and Purpose of the Special Meeting</u>	40
<u>Record Date and Quorum</u>	40
<u>Vote Required for Approval</u>	41
<u>Voting by Directors and Executive Officers of TomoTherapy</u>	41
<u>Proxies and Revocation</u>	41
<u>Adjournments and Postponements</u>	43
<u>Solicitation of Proxies</u>	43
<u>Questions and Additional Information</u>	43
<u>Availability of Documents</u>	43
<u>THE MERGER</u>	44
<u>Background of the Merger</u>	44
<u>TomoTherapy's Reasons for the Merger; Recommendation of TomoTherapy's Board of Directors</u>	52
<u>Opinion of TomoTherapy's Financial Advisor</u>	57
<u>Financial Forecasts</u>	63
<u>Accuray's Reasons for the Merger</u>	66
<u>Treatment of Outstanding Equity Awards</u>	69
<u>Interests of TomoTherapy's Directors and Executive Officers in the Merger</u>	69
<u>Material U.S. Federal Income Tax Consequences of the Merger</u>	73
<u>Regulatory Approvals</u>	75
<u>Board of Directors and Executive Officers of Accuray Following the Merger</u>	76
<u>Litigation Related to the Merger</u>	76
<u>Dissenters' Rights</u>	77
<u>Source of Funds for Cash Consideration</u>	77
<u>Merger Expenses, Fees and Costs</u>	78
<u>Restrictions on Resales by Affiliates</u>	78
<u>Stock Exchange Listing of Accuray Common Stock</u>	78
<u>Delisting and Deregistration of TomoTherapy Common Stock</u>	78
<u>Accounting Treatment</u>	78
<u>THE MERGER AGREEMENT</u>	79
<u>The Merger</u>	79
<u>Effective Time; Closing</u>	79
<u>Directors and Officers</u>	80
<u>The Merger Consideration</u>	80
<u>Payment and Exchange Procedures</u>	80

Edgar Filing: ACCURAY INC - Form 424B3

Table of Contents

	Page
<u>Dividends and Distributions</u>	<u>82</u>
<u>Treatment of Stock Options, Restricted Stock and Employee Stock Purchase Plan</u>	<u>82</u>
<u>Representations and Warranties</u>	<u>84</u>
<u>Covenants Regarding Conduct of Business by TomoTherapy Prior to the Merger</u>	<u>87</u>
<u>Covenants Regarding Conduct of Business by Accuray Prior to the Merger</u>	<u>90</u>
<u>Covenant Regarding Share Issuance</u>	<u>91</u>
<u>No Solicitation</u>	<u>91</u>
<u>Change in Recommendation by TomoTherapy's Board</u>	<u>93</u>
<u>Shareholders Meeting</u>	<u>94</u>
<u>Efforts to Consummate the Merger: Regulatory Matters</u>	<u>95</u>
<u>Indemnification, Exculpation and Insurance</u>	<u>96</u>
<u>TomoTherapy Cash and Cash Equivalents</u>	<u>96</u>
<u>Employee Matters</u>	<u>96</u>
<u>Conditions to the Merger</u>	<u>98</u>
<u>Termination of the Merger Agreement</u>	<u>99</u>
<u>Transaction Fees and Expenses: Termination Fee</u>	<u>101</u>
<u>Other Covenants and Agreements</u>	<u>102</u>
<u>Extension, Waiver and Amendment of the Merger Agreement</u>	<u>102</u>
<u>THE SUPPORT AGREEMENT</u>	<u>103</u>
<u>COMPARISON OF RIGHTS OF ACCURAY STOCKHOLDERS AND TOMOTHERAPY</u>	
<u>SHAREHOLDERS</u>	<u>104</u>
<u>LEGAL MATTERS</u>	<u>130</u>
<u>EXPERTS</u>	<u>130</u>
<u>OTHER MATTERS</u>	<u>130</u>
<u>SUBMISSION OF STOCKHOLDER/SHAREHOLDER PROPOSALS</u>	<u>130</u>
<u>HOUSEHOLDING</u>	<u>132</u>
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	<u>133</u>
ANNEX A Agreement and Plan of Merger	

ANNEX B Support Agreement

ANNEX C Opinion of Merrill Lynch, Pierce, Fenner & Smith Incorporated

PROXY CARD

Table of Contents

QUESTIONS AND ANSWERS ABOUT THE SPECIAL MEETING AND THE MERGER

The following questions and answers are intended to address briefly some questions you may have regarding the special meeting and the proposed merger. These questions and answers may not address all questions that may be important to you as a shareholder. Please refer to the more detailed information contained elsewhere in this proxy statement/prospectus, as well as the additional documents to which this proxy statement/prospectus refers or which it incorporates by reference, including the merger agreement, a copy of which is attached to this proxy statement/prospectus as Annex A. See "Where You Can Find More Information" for the location of information incorporated by reference into this proxy statement/prospectus.

Q: Why am I receiving this document?

A:

Under the merger agreement, TomoTherapy will become a wholly-owned subsidiary of Accuray and will no longer be a publicly held corporation. In the merger, in addition to the payment of cash, Accuray will issue shares of Accuray common stock as part of the consideration to be paid to holders of TomoTherapy common stock.

We are delivering this document to you as both a proxy statement of TomoTherapy and a prospectus of Accuray. It is a proxy statement because the TomoTherapy board of directors is soliciting proxies from its shareholders to vote for the approval and adoption of the merger agreement at the special meeting being held to consider and vote upon the proposal to approve and adopt the merger agreement, as well as the other matters set forth in the notice of the meeting and described in this proxy statement/prospectus, and your proxy will be used at the meeting or at any adjournment or postponement of the meeting. It is a prospectus because Accuray will issue Accuray common stock to TomoTherapy shareholders as a portion of the consideration to be paid in the merger.

Q: On what am I being asked to vote?

A:

At the special meeting, TomoTherapy common shareholders will be asked (1) to approve and adopt the merger agreement and (2) to approve the adjournment of the special meeting for the solicitation of additional proxies in the event there are insufficient votes present, in person or represented by proxy, at the time of the special meeting to approve and adopt the merger agreement.

Q: What will TomoTherapy common shareholders receive in the merger?

A:

By virtue of the merger, each share of TomoTherapy common stock, par value \$0.01 per share, issued and outstanding immediately prior to the effective time of the merger (the "Effective Time"), except for shares of TomoTherapy common stock held directly or indirectly by Accuray, Jaguar Acquisition, Inc. ("Merger Sub") or any wholly-owned subsidiary of TomoTherapy, will be automatically converted into the right to receive the merger consideration, which is:

- (i) \$3.15 in cash, without interest and less applicable withholding taxes; and
- (ii) 0.1648 shares of common stock, par value \$0.001 per share, of Accuray.

No fractional shares of Accuray will be issued in connection with the merger. Instead, a TomoTherapy shareholder who otherwise would have received a fraction of a share of Accuray common stock will receive an amount in cash rather than a fractional share. This cash amount will be determined by multiplying the fraction of a share of Accuray common stock to which the holder would otherwise be entitled by the volume weighted average closing price of one share of Accuray common stock on NASDAQ for the ten trading days ending on the last trading day immediately prior to the date on which the Effective Time occurs, as such price is reported by Bloomberg

Edgar Filing: ACCURAY INC - Form 424B3

Table of Contents

Financial Markets (or such other source agreed to by the parties) in composite transactions for NASDAQ. See "The Merger The Merger Consideration."

Q: Is the merger taxable to TomoTherapy shareholders for U.S. federal income tax purposes?

A:

The receipt of Accuray common stock and cash in exchange for TomoTherapy common stock in the merger will be a taxable transaction for U.S. federal income tax purposes. A U.S. holder (as defined below) who receives Accuray common stock and cash in the merger will generally recognize capital gain or loss equal to the difference, if any, between (1) the sum of the fair market value of Accuray common stock and cash, including any cash received in lieu of fractional shares of Accuray common stock, received in the merger, and (2) such holder's adjusted tax basis in its TomoTherapy common stock exchanged therefor.

Please carefully review the information set forth in the section entitled "The Merger Material U.S. Federal Income Tax Consequences of the Merger," for a description of the material U.S. federal income tax consequences of the merger. **The tax consequences of the merger to you will depend on your own situation. Please consult your tax advisors for a full understanding of the tax consequences of the merger to you.**

Q: How does TomoTherapy's board of directors recommend that I vote on the proposals?

A:

The board of directors of TomoTherapy unanimously recommends that you vote **"FOR"** the approval and adoption of the merger agreement and **"FOR"** the adjournment, if necessary, of the special meeting to solicit additional proxies in favor of approval and adoption of the merger agreement.

Q: Are there risks that I should consider in deciding whether to vote for the merger?

A:

Yes. In evaluating the merger, you should consider carefully the factors discussed in the section entitled "Risk Factors."

Q: What are the conditions to consummation of the merger?

A:

TomoTherapy's and Accuray's obligations to complete the merger are subject to several conditions, including:

the approval and adoption of the merger agreement by TomoTherapy's shareholders;

the expiration or termination of the applicable waiting period under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act");

the absence of any law or any order issued by any governmental entity prohibiting or making illegal the consummation of the merger;

approval for listing of the shares of Accuray common stock to be issued in the merger on NASDAQ, subject to official notice of issuance;

the effectiveness under the Securities Act of 1933, as amended (the "Securities Act"), of the registration statement, of which this proxy statement/prospectus forms a part, and the absence of any pending or threatened stop order suspending the effectiveness of such registration statement;

Edgar Filing: ACCURAY INC - Form 424B3

TomoTherapy's, Accuray's and Merger Sub's performance, in all material respects, of all obligations required to be performed by TomoTherapy, Accuray and Merger Sub, respectively, under the merger agreement at or prior to the closing;

Table of Contents

TomoTherapy's performance, in all respects, of its obligation to transfer \$65,000,000 in cash to a TomoTherapy account with the Exchange Agent prior to closing;

the absence of any event, change, circumstance, occurrence, effect or state of facts that, individually or in the aggregate, has had or would reasonably be expected to have a material adverse effect on TomoTherapy or TomoTherapy's subsidiaries, taken as a whole;

the absence of certain pending or threatened actions by any governmental entity, including those that seek to challenge or make illegal or materially delay the consummation of the merger or any of the other transactions contemplated by the merger agreement;

the accuracy of TomoTherapy's representations and warranties to the extent required by the merger agreement;

the receipt by TomoTherapy and its subsidiaries of certain third-party consents; and

the accuracy of Accuray's representations and warranties to the extent required by the merger agreement.

See "The Merger Agreement Conditions to the Merger."

Q: What will happen if the merger is not completed?

A:

If the merger agreement is not approved and adopted by TomoTherapy shareholders or if the merger is not completed for any other reason, you will not receive any payment for your shares of TomoTherapy common stock in connection with the merger. Instead, TomoTherapy will remain an independent public company, and its common stock will continue to be listed and traded on the NASDAQ. Depending on the circumstances, TomoTherapy may be required to pay Accuray a termination fee of \$8.0 million or reimburse Accuray for up to \$1.5 million of fees and expenses Accuray has incurred in connection with the proposed merger, as described under "The Merger Agreement Transaction Fees and Expenses; Termination Fee."

Q: Are there any other matters to be addressed at the meeting?

A:

TomoTherapy is not aware of any other business to be acted upon at the special meeting. If, however, other matters are properly brought before the special meeting, your proxies will have discretion to vote or act on those matters according to their best judgment, and they intend to vote the shares as the TomoTherapy board of directors may recommend.

Q: When is this proxy statement/prospectus being mailed?

A:

This proxy statement/prospectus and the related proxy card are first being sent to TomoTherapy shareholders on or about May 9, 2011.

Q: When and where will the special meeting be held?

A:

The special meeting will take place at 8:00 a.m. central daylight time on Thursday, June 9, 2011, at TomoTherapy's administrative offices, located at 1212 Deming Way, Madison, Wisconsin, 53717.

Q: Who is entitled to vote at the special meeting?

A:

Edgar Filing: ACCURAY INC - Form 424B3

Holders of record of outstanding shares of TomoTherapy common stock as of the close of business on May 10, 2011, the record date for the special meeting, are entitled to receive notice of, attend and vote or be represented by proxy at the special meeting and any adjournment or postponement of the special meeting. If the special meeting is postponed or adjourned the TomoTherapy board of directors may fix a new record date for any such postponed or adjourned meeting under certain

Table of Contents

circumstances. Each share of TomoTherapy common stock outstanding as of the close of business on the record date is entitled to one vote on each matter properly brought before the special meeting. If a broker or other nominee holds your shares, then you are not the holder of record and you must ask your broker or other nominee how you can vote in person at the special meeting. See "The Special Meeting Proxies and Revocation."

Q: Who may attend the special meeting?

A:

TomoTherapy shareholders (or their authorized representatives) and TomoTherapy's invited guests may attend the special meeting.

Q: How do I vote my shares at the special meeting if I am a record holder of shares of TomoTherapy common stock?

A:

If you are a holder of record of TomoTherapy common stock as of the close of business on May 10, 2011, the record date for the special meeting, you may authorize a proxy to vote your shares at the special meeting or you may vote your shares in person at the special meeting. However, TomoTherapy encourages you to submit a proxy before the special meeting, even if you plan to attend the special meeting. You can authorize your proxy by completing, signing, dating and returning the enclosed proxy card in the accompanying pre-addressed, postage-paid envelope and in accordance with the instructions on the proxy card or, if you prefer, by telephone or over the Internet by following the instructions on the enclosed proxy card.

Q: How do I vote my shares at the special meeting, if my shares of TomoTherapy common stock are held in "street name?"

A:

If your shares are held in an account at a broker or another nominee, you must instruct the broker or such other nominee on how to vote your shares by following the instructions that the broker or other nominee provides to you with these materials. Most brokers offer the ability for shareholder to submit voting instructions by mail by completing a voting instruction card, by telephone or over the Internet.

If you do not provide instructions to your broker or other nominee, your shares will not be voted on any proposal on which your broker or other nominee does not have discretionary authority to vote. This is called a broker non-vote. In these cases, the broker can register your shares as being present at the special meeting for purposes of determining a quorum but will not be able to vote on those matters for which specific authorization is required. Brokers will not have discretionary authority to vote on the proposal to approve and adopt the merger agreement. A broker non-vote will have the same effect as a vote "**AGAINST**" the approval and adoption of the merger agreement.

If you hold shares through a broker or other nominee and wish to vote your shares in person at the special meeting, you must obtain a proxy from your broker or other nominee and present it to the inspector of election with your ballot when you vote at the special meeting.

Q: Why is my vote important?

A:

If you do not return your proxy card, submit your proxy by telephone or over the Internet or vote in person at the special meeting, it will be more difficult for TomoTherapy to obtain the necessary quorum to hold its special meeting and obtain the necessary shareholder votes to approve and adopt the merger agreement. In addition, your failure to return a proxy card, submit a proxy by telephone or over the Internet or vote in person at the special meeting will have the same effect as a vote "**AGAINST**" the approval and adoption of the merger agreement.

Table of Contents

Q: What constitutes a quorum for the meeting?

A:

A majority of the votes entitled to be cast by holders of issued and outstanding shares of TomoTherapy common stock must be present or represented by proxy to constitute a quorum for action on the matters to be voted upon at the special meeting. All shares of TomoTherapy common stock represented at the special meeting, including abstentions and broker non-votes, will be treated as present for purposes of determining the presence or absence of a quorum for all matters voted on at the special meeting.

Q: What vote of TomoTherapy's shareholders is required to approve and adopt the merger agreement or to approve an adjournment of the special meeting?

A:

The affirmative vote of at least a majority of all of the votes entitled to be cast by holders of outstanding shares of TomoTherapy common stock is required to approve and adopt the merger agreement. If a quorum is present, approval of the proposal to adjourn the special meeting to solicit additional proxies requires the votes cast favoring the action to exceed the votes cast opposing the action.

Q: What will happen if I abstain from voting or fail to vote?

A:

With respect to the proposal to approve and adopt the merger agreement, if you abstain from voting on the proposal, fail to cast your vote in person or by proxy or if your shares are held by your broker or other nominee (*i.e.*, in "street name") and you fail to give voting instructions to your broker or other nominee on how to vote your shares, it will have the same effect as a vote "**AGAINST**" the proposal to approve and adopt the merger agreement.

With respect to the proposal to approve any adjournment of the special meeting for the purpose of soliciting additional proxies, if you abstain from voting on the proposal, fail to cast your vote in person or by proxy or if you hold your shares in "street name" and fail to give voting instructions to your broker or other nominee on how to vote your shares, it will not have any effect on the outcome of the vote on that proposal.

Q: How will proxy holders vote my shares of common stock?

A:

If you properly authorize a proxy prior to the special meeting, your shares of common stock will be voted as you direct. If you authorize a proxy but no direction is otherwise made, your shares of common stock will be voted "**FOR**" the proposal to approve and adopt the merger agreement and "**FOR**" the proposal to approve any adjournments of the special meeting for the purpose of soliciting additional proxies. The proxy holders will vote in their discretion upon such other matters as may properly come before the special meeting by or at the direction of TomoTherapy's board of directors or any adjournment or postponement of the special meeting.

Q: What happens if I sell my shares of common stock before the special meeting?

A:

If you held your shares of TomoTherapy common stock as of the close of business on the record date but transfer them prior to the special meeting, you will retain your right to vote at the special meeting (provided that such shares remain outstanding on the date of the special meeting), but you will not have the right to receive the merger consideration for the shares. In order to receive the merger consideration, you must hold your TomoTherapy shares through completion of the merger.

Table of Contents

Q: Can I change my vote?

A:

Yes. If you own shares of common stock as a record holder as of the close of business on the record date, you may revoke a previously authorized proxy at any time prior to its exercise by delivering a properly executed, later-dated proxy card, by authorizing your proxy by telephone or over the Internet at a later date than your previously authorized proxy, by filing a written revocation of your proxy with TomoTherapy's Secretary or by voting in person at the special meeting. Attendance at the meeting will not, in itself, constitute revocation of a previously authorized proxy. If you own shares of common stock in "street name," you may revoke or change previously granted voting instructions by following the instructions provided by the broker or other nominee that is the registered owner of the shares.

Q: Should I send in my TomoTherapy stock certificates now?

A:

No. You should not send in any stock certificates at this time. Shortly after the merger is completed, you will receive a letter of transmittal with instructions informing you how to send your share certificates to the Exchange Agent in order to receive the merger consideration. You should use the letter of transmittal to exchange shares of TomoTherapy common stock for the merger consideration to which you are entitled as a result of the merger. TomoTherapy shareholders who hold their shares in book-entry form will not receive a letter of transmittal and will not need to take any action in order to receive the merger consideration.

Q: Am I entitled to dissenters' rights?

A:

No. Under Wisconsin law, the holders of TomoTherapy common stock are not entitled to dissenters' rights in connection with the merger.

Q: When do you expect the merger to be completed?

A:

TomoTherapy and Accuray are working towards completing the merger promptly. TomoTherapy and Accuray currently expect to complete the merger in the second quarter or the beginning of the third quarter of calendar 2011, subject to receipt of TomoTherapy's shareholder adoption and approval of the merger agreement, antitrust approval in the United States and other closing conditions set forth in the merger agreement. However, no assurance can be given as to when, or if, the merger will occur.

Q: What will happen to the common stock that I currently own after completion of the merger?

A:

Following the completion of the merger, your shares of common stock will be cancelled and will represent only the right to receive the merger consideration. Trading in TomoTherapy common stock on NASDAQ will cease, and price quotations for TomoTherapy common stock will no longer be available.

Q: Where can I find more information about TomoTherapy and Accuray?

A:

You can find more information about TomoTherapy and Accuray from various sources as described under "Sources of Additional Information" and "Where You Can Find More Information."

Q: Who will solicit and pay the cost of soliciting proxies?

A:

TomoTherapy will bear the cost of soliciting proxies for the special meeting. The TomoTherapy board of directors is soliciting your proxy on behalf of TomoTherapy. TomoTherapy's directors, officers and employees may solicit proxies by telephone and facsimile, by mail, over the Internet or in person. They will not be paid any additional amounts for soliciting proxies. TomoTherapy has

Table of Contents

retained MacKenzie Partners, Inc. ("MacKenzie") to assist it in the solicitation of proxies. TomoTherapy expects to pay MacKenzie a fee not to exceed \$30,000 for its services. TomoTherapy will also pay additional fees to MacKenzie depending upon the extent of additional services requested by TomoTherapy and reimburse MacKenzie for expenses it incurs in connection with its engagement by TomoTherapy. TomoTherapy also will request that banking institutions, brokerage firms, custodians, trustees, nominees, fiduciaries and other similar record holders forward the solicitation materials to the beneficial owners of common stock held of record by such person, and TomoTherapy will, upon request of such record holders, reimburse forwarding charges and out-of-pocket expenses.

Q: Who can help answer my other questions?

A:

Please contact MacKenzie Partners, Inc., the firm assisting us in the solicitation of proxies, at:

105 Madison Avenue
New York, New York 10016
proxy@mackenziepartners.com
Call Collect: (212) 929-5500
or
Toll-Free (800) 322-2885

TomoTherapy is not responsible for the accuracy of any information provided by or relating to Accuray contained in any proxy solicitation materials made available by or on behalf of Accuray or any other statements that Accuray may otherwise make. Accuray is not responsible for the accuracy of any information provided by or relating to TomoTherapy contained in any proxy solicitation materials made available by or on behalf of TomoTherapy or any other statements that TomoTherapy may otherwise make.

Table of Contents

SUMMARY

The following summary highlights information in this proxy statement/prospectus and may not contain all the information that is important to you. Accordingly, TomoTherapy and Accuray encourage you to read carefully this entire proxy statement/prospectus, its annexes and the documents referred to herein for a more complete understanding of the proposals to be considered at the special meeting of TomoTherapy shareholders, the merger and the other transactions contemplated by the merger agreement. In addition, TomoTherapy and Accuray incorporate by reference important business and financial information about TomoTherapy and Accuray into this proxy statement/prospectus. For a description of this information and how you may obtain it without charge, see "Where You Can Find More Information" on page 133. Each item in this summary includes a page reference directing you to a more complete description of the item in this proxy statement/prospectus.

In this proxy statement/prospectus "TomoTherapy" refers to TomoTherapy Incorporated, and where appropriate, its subsidiaries, "Accuray" refers to Accuray Incorporated and "Merger Sub" refers to Jaguar Acquisition, Inc. In addition, TomoTherapy and Accuray refer to the proposed merger of Merger Sub with and into TomoTherapy as the "merger," the Agreement and Plan of Merger, dated as of March 6, 2011, by and among TomoTherapy, Accuray and Merger Sub as the "merger agreement" and the effective time of the merger as the "Effective Time."

The Companies (Page 39)

TomoTherapy Incorporated

1240 Deming Way
Madison, Wisconsin 53717
(608) 824-2800

TomoTherapy, a Wisconsin corporation, together with its affiliates, develops, manufactures, markets and sells advanced radiation therapy solutions to treat a wide range of cancer types. TomoTherapy markets its products to hospitals and cancer treatment centers in the Americas, Europe, the Middle East and Asia-Pacific and offers customer support services in each region directly or through third-party distributors. TomoTherapy was originally incorporated in 1997 and sold its first clinical product, the Hi Art treatment system, in 2003. In May 2007, TomoTherapy became a publicly traded company. TomoTherapy's common stock is traded on NASDAQ under the symbol "TOMO."

As of December 31, 2010, TomoTherapy had \$270 million of assets, including \$152 million in cash, cash equivalents and short term investments, and \$163 million in shareholders' equity. TomoTherapy announced in February 2011 that it had shipped its 350th radiation therapy system.

Accuray Incorporated

1310 Chesapeake Terrace
Sunnyvale, California 94089
(408) 716-4600

Accuray, a Delaware corporation, designs, develops and sells the CyberKnife system. The CyberKnife system is an image-guided robotic radiosurgery system used for the treatment of solid tumors anywhere in the body as an alternative to traditional surgery. The CyberKnife system is designed to treat small to medium-sized, discrete tumors. Together with its subsidiaries, Accuray markets and services its products in the Americas, Asia and Europe. Accuray was incorporated in California in 1990 and commenced operations in 1992. Accuray reincorporated in Delaware in 2007 and became a publicly traded company in February 2007. Accuray's common stock is traded on NASDAQ under the symbol "ARAY."

As of December 31, 2010, Accuray had \$256 million of assets, including \$152 million in cash, cash equivalents and short-term available-for-sale securities, and \$178 million in stockholders' equity. As of

Table of Contents

December 31, 2010, Accuray had installed 222 CyberKnife systems at customer sites: 139 in the Americas, 48 in Asia and 35 in Europe.

Jaguar Acquisition, Inc.
c/o Accuray Incorporated
1310 Chesapeake Terrace
Sunnyvale, California 94089
(408) 716-4600

Merger Sub is a Wisconsin corporation that was formed solely for the purpose of entering into the merger agreement and completing the transactions contemplated by the merger agreement. Merger Sub has engaged in no business other than in connection with the transactions contemplated by the merger agreement.

The Special Meeting (Page 40)

Date, Time and Place. The special meeting will be held on Thursday, June 9, 2011, starting at 8:00 a.m. central daylight time at TomoTherapy's administrative offices, located at 1212 Deming Way, Madison, Wisconsin, 53717.

Purpose. You will be asked to consider and vote upon (1) the approval and adoption of the merger agreement, (2) the adjournment of the special meeting to a later date, if necessary or appropriate, to solicit additional proxies if there are insufficient votes at the time of the special meeting to approve and adopt the merger agreement and (3) such other business as may properly come before the special meeting by or at the direction of the TomoTherapy board of directors or any adjournments or postponements of the special meeting.

Record Date and Quorum. You are entitled to vote at the special meeting if you were the record owner of shares of TomoTherapy common stock at the close of business on May 10, 2011, the record date for the special meeting. Shareholders of record of TomoTherapy common stock as of the close of business on the record date will have one vote for each share of TomoTherapy common stock owned of record on the record date. As of May 10, 2011, it is expected that 56,188,986 shares of TomoTherapy common stock will be issued and outstanding and entitled to vote. A majority of the votes entitled to be cast by holders of issued and outstanding shares of TomoTherapy common stock constitutes a quorum for the purpose of the special meeting. In the event that a quorum is not present in person or represented by proxy at the special meeting, the meeting may be adjourned or postponed to solicit additional proxies.

Vote Required. The approval and adoption of the merger agreement requires the affirmative vote of at least a majority of all of the votes entitled to be cast by holders of outstanding shares of TomoTherapy common stock. If a quorum is present, approval of any proposal to adjourn the special meeting, if necessary or appropriate, for the purpose of soliciting additional proxies requires the votes cast favoring the action to exceed the votes cast opposing the action.

The Merger (Page 44) and the Merger Agreement (Page 79)

The terms and conditions of the merger are contained in the merger agreement, which is attached to this proxy statement/prospectus as Annex A. TomoTherapy and Accuray encourage you to read the merger agreement carefully, as it is the legal document that governs the merger.

Under the terms of the merger agreement, Merger Sub will merge with and into TomoTherapy, and TomoTherapy will survive the merger as a direct, wholly-owned subsidiary of Accuray.

Table of Contents**Merger Consideration (Page 80)**

Upon completion of the merger, each outstanding share of TomoTherapy common stock, except for shares of TomoTherapy common stock held directly or indirectly by Accuray, Merger Sub or any wholly-owned subsidiary of TomoTherapy (which will be canceled as a result of the merger), will be converted into the right to receive (i) \$3.15 in cash, without interest and less applicable withholding taxes ("cash consideration"), and (ii) 0.1648 shares of Accuray common stock, par value \$0.001 per share ("stock consideration"). The per share cash consideration and stock consideration are fixed, subject to certain customary anti-dilution adjustments, and will not be adjusted for changes in the market price of either TomoTherapy common stock or Accuray common stock. Accordingly, any change in the price of Accuray common stock prior to the merger will affect the market value of the stock consideration that TomoTherapy shareholders will receive as a result of the merger. **No assurance can be given (and it is not likely) that the market price of Accuray common stock on the date that stock is received by a TomoTherapy shareholder or at any other time will be the same as the market price of Accuray common stock as of March 4, 2011, the last full trading day before the announcement of the merger agreement.** You should obtain current stock price quotations for TomoTherapy and Accuray common stock. TomoTherapy and Accuray common stock trade on NASDAQ under the symbols "TOMO" and "ARAY," respectively.

The following table shows the per share closing prices for TomoTherapy common stock and Accuray common stock and the implied per share value in the merger to TomoTherapy shareholders on March 4, 2011, the last trading day completed before TomoTherapy and Accuray announced the execution of the merger agreement and on May 6, 2011, the date of this proxy statement/prospectus:

	TomoTherapy Common Stock Price/Share		Accuray Common Stock Price/Share		Implied Value of One Share of TomoTherapy Common Stock*
March 4, 2011	\$	3.67	\$	10.01	\$ 4.80
May 6, 2011	\$	4.42	\$	7.98	\$ 4.47

*

Represents \$3.15 in cash (without interest), plus the value of 0.1648 shares of Accuray common stock valued at the per share prices for Accuray Common Stock set forth in this table.

Treatment of Stock Options, Restricted Stock and Employee Stock Purchase Plan (Page 82)

If the merger is completed,

each outstanding option to purchase shares of TomoTherapy common stock ("TomoTherapy option") will be converted into an option to purchase shares of Accuray common stock (an "Accuray option"), on the same terms and conditions as were applicable immediately prior to the Effective Time, but taking into account any acceleration of vesting that applies in connection with the merger. The number of shares of Accuray common stock subject to each Accuray option will be equal to the number of shares of TomoTherapy common stock subject to the related TomoTherapy option immediately prior to the Effective Time multiplied by the option exchange ratio, rounded down, if necessary, to the nearest whole share of Accuray common stock, and such Accuray option will have an exercise price per share (rounded up to the nearest whole cent) equal to the exercise price per share of TomoTherapy common stock divided by the option exchange ratio, in each case subject to adjustment in order to comply with certain provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and to ensure that the number of shares of Accuray common stock subject to Accuray options, together with all shares of Accuray common stock issuable in the merger, is below certain thresholds. The "option exchange ratio" is defined as the sum of (a) \$3.15 divided by the volume weighted average of the daily closing prices per share of Accuray common stock on NASDAQ for the five

Table of Contents

consecutive trading days ending on and including the trading day immediately preceding the Effective Time plus (b) 0.1648 shares of Accuray common stock (which equals the number of shares of Accuray common stock into which each share of TomoTherapy common stock will be converted in the merger);

each outstanding share of restricted stock of TomoTherapy (other than shares held in the treasury of TomoTherapy or owned, directly or indirectly, by Accuray, Merger Sub or any wholly-owned subsidiary of TomoTherapy) will be converted into the right to receive the cash consideration and the stock consideration (together, the "merger consideration"). However, the stock consideration payable to holders of shares of restricted stock of TomoTherapy will continue to have the same vesting and forfeiture provisions and the cash consideration payable to holders of shares of restricted stock of TomoTherapy will not be payable until the date such restricted shares would have become vested under the vesting schedule in place for such shares immediately prior to the Effective Time (subject to the same terms and conditions, including any vesting or forfeiture provisions or repurchase rights, but taking into account any acceleration thereof provided for in the applicable plan, related award document or any other agreement); and

TomoTherapy common stock will continue to be issued to participants under TomoTherapy's 2007 Employee Stock Purchase Plan, as amended (the "ESPP"), on the next currently scheduled purchase dates thereunder subject to the terms and conditions of the ESPP, any offering in progress as of the Effective Time will be shortened, and the "Exercise Date" (as defined in the ESPP) will be the business day immediately preceding the Effective Time. Each then outstanding option under the ESPP will be exercised automatically on such Exercise Date. The ESPP will be terminated as of or prior to the Effective Time.

TomoTherapy's Reasons for the Merger (Page 52)

In reaching its decision to approve, adopt and declare advisable the merger agreement, the merger and the other transactions contemplated by the merger agreement, the TomoTherapy board of directors consulted with TomoTherapy's senior management, as well as its financial and legal advisors, and considered a number of factors that the board members believed supported their decision.

Recommendation of TomoTherapy Board of Directors (Page 52)

The TomoTherapy board of directors has unanimously determined that the entry into the merger agreement and the consummation of the merger and the other transactions contemplated by the merger agreement are advisable and in the best interests of the shareholders of TomoTherapy, unanimously authorized, approved and adopted the merger agreement, the merger and the other transactions contemplated thereby and unanimously determined that the merger consideration is fair to the shareholders of TomoTherapy entitled to receive the merger consideration. **The TomoTherapy board of directors unanimously recommends that TomoTherapy shareholders vote "FOR" the approval and adoption of the merger agreement and "FOR" the adjournment of the special meeting, if necessary or appropriate, to solicit additional proxies.**

Accuray's Reasons for the Merger (Page 66)

In reaching its decision to approve the merger and its determination that the terms of the merger agreement and the transactions contemplated thereby are advisable, and in the best interests of, Accuray and its stockholders, the Accuray board of directors evaluated the merger in consultation with Accuray's senior management and advisors, and considered a number of factors that the board members believed supported their decision.

Table of Contents

Common Stock Ownership of Directors and Executive Officers; Support Agreement (Page 103)

In connection with the transactions contemplated by the merger agreement, all of TomoTherapy's executive officers and directors have, in their capacity as shareholders of TomoTherapy, entered into a support agreement (the "support agreement") with Accuray pursuant to which, among other things, they irrevocably agreed to vote the shares of TomoTherapy common stock beneficially owned by them in favor of the merger. Such shareholders also agreed to vote all such shares of TomoTherapy common stock against, among other things, any other acquisition proposal or alternative acquisition agreement, any proposal for any recapitalization, reorganization, liquidation, dissolution, or business combination between TomoTherapy and any person other than Accuray, and any other action that could reasonably be expected to impede, interfere with, delay, postpone, discourage or adversely affect the consummation of the merger. As of May 10, 2011, the record date for the special meeting, the directors and executive officers of TomoTherapy are expected to beneficially own in the aggregate approximately 6,293,419 shares of TomoTherapy common stock entitled to vote at the special meeting, representing approximately 11% of the shares of TomoTherapy common stock expected to be outstanding as of the record date.

Opinion of TomoTherapy's Financial Advisor (Page 57)

In connection with the merger, Merrill Lynch, Pierce, Fenner & Smith Incorporated ("BofA Merrill Lynch"), TomoTherapy's financial advisor, delivered a written opinion, dated March 6, 2011, to TomoTherapy's board of directors to the effect that, as of the date of the opinion and based on and subject to various assumptions and limitations described in its opinion, the merger consideration was fair, from a financial point of view, to holders of TomoTherapy common stock. The full text of the written opinion, dated March 6, 2011, of BofA Merrill Lynch, which describes, among other things, the assumptions made, procedures followed, factors considered and limitations on the review undertaken, is attached as Annex C to this proxy statement/prospectus and is incorporated by reference herein in its entirety. **BofA Merrill Lynch provided its opinion to TomoTherapy's board of directors for the benefit and use of TomoTherapy's board of directors (in its capacity as such) in connection with and for purposes of its evaluation of the merger consideration from a financial point of view. BofA Merrill Lynch's opinion does not address any other aspect of the merger and does not constitute a recommendation to any**