

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

SUPERIOR COURT
(Commercial Division)

(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, RSC 1985,
c. C-36)

No.: 500-11-061483-224

**IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF:**

FORMERXBC INC. (formerly **XEBEC ADSORPTION
INC.**)

-and-

11941666 CANADA INC. (formerly **XEBEC RNG
HOLDINGS INC.**)

-and-

APPLIED COMPRESSION SYSTEMS LTD.

-and-

1224933 ONTARIO INC. (formerly **COMPRESSED
AIR INTERNATIONAL INC.**)

-and-

FORMERXBC HOLDING USA INC. (formerly
XEBEC HOLDING USA INC.)

-and-

ENERPHASE INDUSTRIAL SOLUTIONS, INC.

-and-

CDA SYSTEMS, LLC

-and-

FORMERXBC ADSORPTION USA INC. (formerly
XEBEC ADSORPTION USA INC.)

-and-

FORMERXBC PENNSYLVANIA COMPANY
(formerly **THE TITUS COMPANY**)

-and-

FORMERXBC NOR CORPORATION (formerly
NORTEKBELAIR CORPORATION)

-and-

FORMERXBC FLOW SERVICES – WISCONSIN INC. (formerly **XBC FLOW SERVICES – WISCONSIN INC.**)

-and-

CALIFORNIA COMPRESSION, LLC

-and-

FORMERXBC SYSTEMS USA, LLC (formerly **XEBEC SYSTEMS USA, LLC**)

Debtors / Petitioners

-and-

DELOITTE RESTRUCTURING INC.

Monitor

APPLICATION FOR (I) AN EXTENSION OF THE STAY OF PROCEEDINGS, (II) THE ESTABLISHMENT OF A CLAIMS PROCESS, (III) THE AUTHORIZATION TO USE NET PROCEEDS TO FUND CASH-FLOW REQUIREMENTS AND (IV) THE ISSUANCE OF AN APPROVAL AND VESTING ORDER IN RESPECT OF BIOSTREAM ASSETS OF FORMERXBC SYSTEMS USA, LLC (FORMERLY XEBEC SYSTEMS USA, LLC)
(Sections 11 and 11.02 of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36)

TO THE HONOURABLE JUSTICE CHRISTIAN IMMER, J.S.C., SITTING IN COMMERCIAL DIVISION, IN THE JUDICIAL DISTRICT OF MONTRÉAL, THE DEBTORS / PETITIONERS RESPECTFULLY SUBMIT AS FOLLOWS:

I. INTRODUCTION

1. The Debtors / Petitioners FormerXBC Inc. (formerly Xebec Adsorption Inc.) ("**FormerXBC**"), 11941666 Canada Inc. (formerly Xebec RNG Holdings Inc.), Applied Compression Systems Ltd., 1224933 Ontario Inc. (formerly Compressed Air International Inc.) ("**FormerCAI**"), FormerXBC Holding USA Inc. (formerly Xebec Holding USA Inc.), Enerphase Industrial Solutions, Inc., California Compression, LLC, CDA Systems, LLC, FormerXBC Adsorption Inc. (formerly Xebec Adsorption USA Inc.), FormerXBC Pennsylvania Company (formerly The Titus Company), FormerXBC NOR Corporation (formerly Nortekbelair Corporation), FormerXBC Systems USA, LLC (formerly Xebec Systems USA, LLC), FormerXBC Flow Services – XBC Wisconsin Inc. (formerly XBC Flow Services – Wisconsin Inc.) (collectively, the "**Petitioners**") form part of a global provider of sustainable gas solutions used in energy, mobility and industry applications, headquartered in Montréal, Québec.

2. By the present Application, the Petitioners are seeking the issuance of:
 - (a) an order extending the Stay Period (as defined below) until September 29, 2023 (the “**Extension Date**”), substantially in the form of the draft Order Extending the Stay of Proceedings communicated herewith as **Exhibit P-1**;
 - (b) a claims procedure order substantially in the form of the draft Claims Procedure Order communicated herewith as **Exhibit P-2** (the “**Draft Claims Procedure Order**”); and
 - (c) an order authorizing the use of the Net Proceeds (as defined below) to fund the cash-flow requirements of the Petitioners.
3. The Petitioners are also seeking the issuance of an order (the “**Biostream AVO**”), substantially in the form of the draft order communicated herewith as **Exhibit P-4**, *inter alia*:
 - (a) authorizing the execution by the petitioner FormerXBC of a binding letter of intent dated May 19, 2023 (the “**Binding LOI**”), as vendor, with Ivys Adsorption Inc. (“**Ivys**”), as purchaser of the Biostream Assets (as defined below);
 - (b) approving the transactions contemplated by the Binding LOI (the “**Biostream Transaction**”);
 - (c) granting the Biostream Charge (as defined below); and
 - (d) sealing the confidential exhibit filed in support thereof (Exhibit P-5).

A comparison of the Biostream AVO and the model approval and vesting order published by the Barreau de Montréal is communicated herewith as **Exhibit P-4A**.

II. PROCEDURAL BACKGROUND

4. On September 29, 2022, at the Petitioners’ request, the Court issued a First Day Initial Order (the “**FDIO**”) pursuant to the CCAA and a Bidding Procedures Order (the “**Bidding Procedures Order**”), as appears from the Court record.
5. The FDIO, *inter alia*:
 - (a) appointed Deloitte Restructuring Inc. as monitor of the Petitioners’ CCAA proceedings (the “**Monitor**”);
 - (b) ordered a stay of proceedings in respect of the Petitioners and their directors and officers until October 7, 2022, as extended thereafter (the “**Stay**”); and

- (c) declared that Québec is the “center of main interest” of the Petitioners and, accordingly, authorized the Petitioners to apply, as they may consider necessary or desirable, to any other court, tribunal, regulatory, administrative or other body, wherever located, for orders to recognize and/or assist in carrying out the terms of the Initial Order and any subsequent Orders rendered by this Court in the context of these proceedings, including, without limitation, orders under Chapter 15 of the United States Bankruptcy Code 11 U.S.C. §§ 101-1532.
- 6. The Bidding Procedures Order, *inter alia*, approved the proposed Sale and Investment Solicitation Process (the “**SISP**”) and its implementation in accordance with the Procedures for the Sale and Investment Solicitation Process annexed thereto as Schedule “A”, as appears from the Court record.
- 7. The Bidding Procedures Order also approved the engagement of National Bank Financial Inc. (“**NBF**”) to assist in the implementation of the SISP.
- 8. On October 20, 2022, at the Petitioners’ request, the Court issued an Amended and Restated Initial Order (the “**ARIO**”) pursuant to the CCAA, as appears from the Court record.
- 9. The ARIO, *inter alia*:
 - (a) extended the Stay until November 28, 2022; and
 - (b) approved the debtor-in-possession evolving multiple draw credit facility (the “**First DIP Facility**”) provided by the National Bank of Canada (“**NBC**”) and Export Development Canada (“**EDC**”, and collectively with NBC, the “**Interim Lenders**”) in accordance with the Interim Financing Term Sheet filed under seal as Exhibit P-2A in support of the Application for the Issuance of an Amended and Restated Initial Order and granted a Court-ordered charge in an amount sufficient to cover the potential exposure of the Interim Lenders under the First DIP Facility.
- 10. On February 3, 2023, at the Petitioners’ request, the Court issued a Second Amended and Restated Initial Order (the “**Second ARIO**”), pursuant to the CCAA, as appears from the Court record.
- 11. The Second ARIO, *inter alia*:
 - (a) extended the Stay until February 13, 2023; and
 - (b) increased the Administration Charge to a maximum amount of \$3,000,000.
- 12. On February 13, 2023, at the Petitioners’ request, the Court issued a Third Amended and Restated Initial Order (the “**Third ARIO**”), pursuant to the CCAA, as appears from the Court record.

13. The Third ARIO, *inter alia*:
 - (a) extended the Stay until March 17, 2023;
 - (b) approved the Second DIP Facility provided by EDC and approved the execution by the Petitioners of the Second DIP Term Sheet (as defined in the Third ARIO) and granted a Court-ordered charge (the “**Second DIP Charge**”); and
 - (c) declared that at the earliest between the disbursement of the initial advance of \$1,250,000 by EDC or payments in the aggregate amount of \$1,100,000 by the Monitor of outstanding invoices to the beneficiaries of the Administration Charge (as defined in the Third ARIO) out of the net proceeds from the Ivys Transaction, the Sullair Transaction and/or the FSTQ Transaction, the Administration Charge shall be reduced by an amount equal to \$750,000 to an amount equal to \$2,250,000 and upon the disbursement of the second advance of \$1,250,000 by EDC, further reduced by an amount equal to \$750,000 to an amount equal to \$1,500,000.
14. On February 21, 2023, in accordance with the Third ARIO, the Monitor issued a certificate confirming that the initial advance of \$1,250,000 by EDC contemplated in the Third ARIO had been received and the Administration Charge accordingly reduced to \$2,250,000.
15. On March 16, 2023, at the Petitioners’ request, the Court issued a Fourth Amended and Restated Initial Order (the “**Fourth ARIO**”), pursuant to the CCAA, as appears from the Court record.
16. The Fourth ARIO, *inter alia*:
 - (a) extended the Stay until May 5, 2023;
 - (b) declared that the certificates of the Monitor to be issued and filed in the Court record pursuant to the Monitor Payments Order (as defined below) shall validly reduce and/or discharge the CCAA Charges (as defined in the Fourth ARIO), as applicable, without the necessity of any amendment to the Monitor Payments Order or of any other orders of the Court.
 - (c) approved an amendment to the list of participants in the KERPs.
17. On the same date, the Court also issued:
 - (a) an Approval, Vesting and Assignment Order with respect to the sale of substantially all assets of FormerXBC Pennsylvania Company (formerly The Titus Company) (the “**Fluid-Aire Transaction**”);

- (b) an Approval, Vesting and Assignment Order with respect to the sale of substantially all assets of FormerXBC Flow Services – XBC Wisconsin Inc. (formerly XBC Flow Services – Wisconsin Inc.) (the “**Total Energy Transaction**”); and
- (c) an Approval, Vesting and Assignment Order with respect to the sale of substantially all assets of FormerXBC Systems USA, LLC (formerly Xebec Systems USA, LLC, “**FormerUEC**”) (the “**EnergyLink Transaction**”);

the whole as appears from the Court record.

18. On March 16, 2023, at the Monitor’s request, the Court issued an Order Authorizing the Monitor to Pay Certain Amounts Owed to Beneficiaries of CCAA Charges (the “**Monitor Payments Order**”), as appears from the Court record.
19. The Monitor Payments Order, *inter alia*:
 - (a) authorized the Monitor to pay from the net proceeds of the previously closed transactions, amounts owed under the DIP Charge, Second DIP Charge and the Transaction DIP Charge, as and when they become due;
 - (b) declared that upon making payments under the DIP Charge, Second DIP Charge and Transaction Charge, and receiving confirmation, respectively of the Interim Lenders, EDC and NBF of the reimbursement of the obligations secured by these charges, the Monitor shall notify and file with the Court record a certificate confirming and effecting the cancellation and discharge of the DIP Charge, the Second DIP Charge and the Transaction Charge;
 - (c) authorized the Monitor to pay from the net proceeds of the previously closed transactions, amounts owed under the KERP as and when they become due; and
 - (d) declared that upon making payments under the KERP Charge, the Monitor shall notify and file with the Court record a certificate confirming and effecting the reduction and/or cancellation and discharge of the KERP Charge, as the case may be, in an amount equivalent to the payments made.
20. On March 17, 2023, in accordance with the Third ARIO and the Monitor Payments Order, the Monitor issued a certificate confirming that the second advance of \$1,250,000 by EDC contemplated in the Third ARIO had been received and the Administration Charge accordingly reduced to \$1,500,000.
21. On March 23, 2023, in accordance with the Monitor Payments Order, the Monitor issued certificates confirming that the obligations secured by the Transaction Charge, the DIP Charge and the Second DIP Charge had been fully satisfied and

that the Transaction Charge, DIP Charge and Second DIP Charge had been accordingly cancelled and discharged.

22. On March 24, 2023, in accordance with the Monitor Payments Order, the Monitor issued a certificate confirming that the amount of the KERP Charge had been reduced to \$400,000 following payment of amounts owed under the KERP.
23. On March 27, 2023, at the Petitioners' request, the Court issued a Fifth Amended and Restated Initial Order (the "**Fifth ARIO**"), pursuant to the CCAA, as appears from the Court record.
24. The Fifth ARIO, *inter alia*:
 - (a) approved the Third DIP Facility to be provided to the Petitioners pursuant to a Third DIP Term Sheet (as defined in the Fifth ARIO) dated as of March 22, 2023, negotiated between the Petitioners and EDC pursuant to which EDC agreed to provide interim financing to the Petitioners, and granting a Third DIP Charge (as defined in the Fifth ARIO) in an amount sufficient to cover the potential exposure of EDC under the Third DIP Facility; and
 - (b) declared that upon the disbursement of the initial advance of \$1,500,000 by EDC as contemplated in the Third DIP Term Sheet and the issuance by the Monitor of a certificate confirming same, the Administration Charge shall be reduced to an amount equal to \$1,250,000 and upon the disbursement of the second advance of \$1,950,000 by EDC and the issuance by the Monitor of a certificate confirming same, further reduced to an amount equal to \$1,000,000.
25. The Fluid-Aire Transaction, Total Energy Transaction and EnergyLink Transaction closed on March 20, March 23 and April 5, 2023, respectively.
26. On April 13, 2023, in accordance with the Third ARIO, the Monitor issued a certificate confirming that the initial advance of \$1,500,000 by EDC contemplated in the Fifth ARIO had been received and the Administration Charge accordingly reduced to \$1,250,000.
27. On May 5, 2023, at the Petitioners' request, the Court issued an order (the "**Stay Order**") extending the Stay to May 24, 2023 (the "**Stay Period**"), as appears from the Court record.
28. On the same date, at the Petitioners' request, the Court issued an order lifting the Stay for the sole purpose of authorizing the filing before the Superior Court of Québec (Class Action Division) in file no. 500-06-001135-215 (*Maurice Leclair et al. v. FormerXBC et al.*) seeking approval of a settlement agreement therein (the "**Class Action Settlement**").

29. On the same date, at the Monitor's request, the Court issued an Order Authorizing the Monitor to Pay Amounts Owed Under the Third DIP Facility and Secured by the Third DIP Charge (the "**Second Monitor Payments Order**").
30. On May 10, 2023, the Monitor issued a Certificate confirming the cancellation and discharge of the Third DIP Charge, as appears from the Court record.

III. RESTRUCTURING EFFORTS SINCE THE ISSUANCE OF STAY ORDER

31. Since the issuance of the Stay Order, the Petitioners, under the supervision of the Monitor, have:
 - (a) worked to finalize the Class Action Settlement and corresponding court documents to seek approval of the Class Action Settlement;
 - (b) prepared a revised and updated cash flow statement covering the period until the Extension Date (as defined below), in consultation with the Monitor;
 - (c) continued to wind down the Petitioners' activities, in consultation with the Monitor;
 - (d) worked with the Monitor to establish the Claims Process (as defined below); and
 - (e) assisted the Monitor in its preparation of the proposed allocation pursuant to paragraph 30 of the Fifth ARIO, which will be presented in a subsequent report of the Monitor to be filed with the Court.

IV. GROUNDS FOR THE EXTENSION OF THE STAY OF PROCEEDINGS

32. Since the issuance of the Stay Order, the Petitioners have acted and continue to act in good faith and with due diligence.
33. The Stay Period currently expires on May 24, 2023.
34. It is respectfully submitted that the extension of the Stay Period to the Extension Date is required to, *inter alia*:
 - (a) obtain recognition of the order to be issued by this Honourable Court in respect of the Claims Process in the Petitioners' Chapter 15 Proceedings;
 - (b) report to the Court on the proposed method of allocation of proceeds, disbursements and costs between the Petitioners' estates, which will be applied in the context of preparing the Proposed Allocation, which is required to be filed prior to any distribution, as provided for in the ARIO (and in each of the ARIOS rendered since, including in the Fifth ARIO);

- (c) hold an information session led by the Monitor regarding the Proposed Allocation with any interested creditors;
 - (d) conduct the Claims Process as outlined below;
 - (e) provide the Petitioners with sufficient time to seek such additional relief from this Court as may be required, notably in connection with the filing of one or more plan(s) of arrangement for the benefit of the Petitioners' creditors, as applicable;
 - (f) continue working towards presenting one or more CCAA plan(s) to their creditors; and
 - (g) continue to wind down the Petitioners' activities, in consultation with the Monitor.
35. The tenth report of the Monitor to be filed with the Court prior to the hearing hereon (the "**Monitor's Report**") will provide additional information regarding the steps detailed above as well as a timeline of approximate dates for upcoming milestones in this matter.
36. The Petitioners have paid their suppliers, employees and other creditors for the sums due from the date of the Fifth ARIO in the ordinary course of business and intend to continue doing so.
37. The Petitioners' cash flow is sufficient to continue operations up to and until the Extension Date, as will appear from the Monitor's Report.
38. No creditor will be unduly prejudiced by the extension sought.

V. GROUNDS FOR THE ISSUANCE OF THE CLAIMS PROCEDURE ORDER

39. The Petitioners intend to present one or more plan(s) of arrangement or compromise to their creditors and as such, submit that it would be in the best interests of all of their stakeholders that this Court establish a process for the determination of the claims of their creditors (the "**Claims Process**").
40. In light of the foregoing, the Petitioners are seeking the issuance of an order substantially in the form of the Draft Claims Procedure Order, which will allow them to definitively determine the quantum of claims that will be subject to a future plan of arrangement or compromise.
41. The Claims Process will allow for:
- (a) a fair and efficient way to deal with all claims against the Petitioners and, if any, their current and former directors and officers (the "**Directors and Officers**"); and

- (b) the quantification of claims required for the Petitioners to prepare one or more plan(s) of arrangement or compromise.
- 42. The contemplated Claims Process includes, *inter alia*, the following key features (capitalized terms in this paragraph have the meaning ascribed to them in the Draft Claims Procedure Order):
 - (a) the Determination Date will be September 29, 2022, being the date of the issuance of the FDIO;
 - (b) the Claims Bar Date for the filing of a Proof of Claim or of a Notice of Dispute with the Monitor will be July 24, 2023. The Draft Claims Procedure Order also provides for a Restructuring Claims Bar Date, being the later of (i) thirty days after the date on which the Monitor sends a Claims Package (in the event that the Creditor receives a Disclaimer Notice after the issuance of the Draft Claims Procedure Order) or (ii) the Claims Bar Date;
 - (c) the Petitioners may choose to assess the amounts of the Claims of employees and send to each such employees a Notice of Scheduled Employee Claim. Unless such employees file a Notice of Dispute with the Monitor by no later than the Claims Bar Date, such employees will be deemed to have accepted the amount set out in the Notice of Scheduled Employee Claim, as applicable;
 - (d) Claims shall include any and all claims against the Directors and Officers; and
 - (e) Disputed Claims will be resolved through the mechanism set out in the Draft Claims Procedure Order.
- 43. The Petitioners intend to seek the recognition of the order approving the Claims Process, as sought herein in its Chapter 15 Proceedings in the United States during the week of June 12, 2023.
- 44. The Petitioners and the Monitor believe that a period of approximately two months following the Claims Bar Date shall be required to properly review and process the filed Claims, following which the Petitioners intend to file one or more plan(s) of arrangement for approval by this Court, as well as an application for the issuance of an order approving the filing of the plan(s) and the holding of a creditors' meeting. It is the intention of the Petitioners that such relief will be sought on or around the Extension Date.
- 45. The Petitioners respectfully submit that:
 - (a) the proposed Claims Process is fair and reasonable;
 - (b) its approval is appropriate in the circumstances to allow the Petitioners to better assess the number, nature and quantum of claims against them and,

if any, against the Directors and Officers, all with a view to properly inform the next steps in the restructuring process; and

- (c) the timeline contemplated in the Draft Claims Procedure Order will allow for the presentation of one or more plan(s) of compromise or arrangement in a timely manner, while at the same time affording a reasonable period of time for the creditors to submit their proofs of claim.

VI. GROUNDS FOR THE ISSUANCE OF AN ORDER AUTHORIZING THE USE OF THE NET PROCEEDS TO FUND CASH-FLOW REQUIREMENTS

- 46. As will be reported in the Monitor's Report, the Monitor currently holds an amount of approximately \$17.075 million in its trust account on account of the net proceeds resulting from transactions arising out of the SISP process or of subsequent transactions (the "**Net Proceeds**").
- 47. In accordance with the orders issued by this Court, the terms of the DIP Facility, Second DIP Facility and Third DIP Facility and as reported in the several reports issued by the Monitor throughout the present matter, the Petitioners have funded their operations and cash-flow requirements, *inter alia*, through their revenue from operations and the interim financing facilities provided by NBC, EDC or both, as applicable, and the authorization by this Court to use a portion of the Net Proceeds to pay outstanding amounts secured by the CCAA Charges.
- 48. As authorized by this Court pursuant to the Second Monitor Payments Order and as evidenced by the Monitor's certificate dated May 8, 2023, the Third DIP Facility has now been reimbursed and the Third DIP Charge cancelled.
- 49. As evidenced in the cash-flow statement which will be included in the Monitor's Report, additional financing is required to fund the restructuring process until the Extension Date.
- 50. Given the costs relating to a potential fourth interim financing facility and the fact that the Monitor currently holds a significant amount of Net Proceeds, which are readily available, subject to an order of this Court, the Petitioners respectfully submit that cash-flow requirements should be funded from the Net Proceeds, up to a maximum amount of \$3 million, until the Extension Date.
- 51. The use of Net Proceeds as contemplated herein would eliminate the need for the Petitioners to seek additional interim financing, amend the Fifth ARIO and put in place an interim financing charge and accordingly, would eliminate significant costs which would relate to such financing, including fees and interest.
- 52. At the present time, there has been no determination by the Monitor and the Petitioners as to the allocation of the portion of Net Proceeds authorized to be used for the purposes contemplated above. Such determination will form part of the eventual Proposed Allocation, in accordance with the Fifth ARIO issued by this Court.

53. The Petitioners have been advised that the Monitor approves the use of Net Proceeds for the purposes set forth herein and the order sought.

VII. BIOSTREAM TRANSACTION

A. Description of the Biostream Transaction

54. On February 17, 2023, at the request of the Petitioners, this Court issued an approval, vesting and assignment order in respect of the sale of certain assets of FormerXBC and FormerCAI, pursuant to the asset purchase agreement dated February 8, 2023, between FormerXBC and FormerCAI as vendors and Ivys as buyer, including assets related to the business operated at the FormerXBC facility in Blainville, Québec (the “**Ivys Transaction**”).
55. On March 16, 2023, at the request of the Petitioners, this Court approved the EnergyLink Transaction, concerning notably the assets related to the operations of the FormerUEC facility in Henderson, Colorado.
56. At the time of the closing of the EnergyLink Transaction, certain work in progress and, including five (5) biostream units (the “**5 Biostream Units**” and the “**Biostream Assets**”) were located at the UEC facility for the purposes of completing a contract entered into between FormerXBC and Brightmark LLC (“**Brightmark**”) and were expressly excluded from the EnergyLink Transaction.
57. Following the closing of the Ivys Transaction, Ivys expressed an interest in purchasing the Biostream Assets from FormerUEC, and the Petitioners and the Monitor have since then engaged in discussions with Ivys regarding same, which discussions resulted in the Binding LOI.
58. The BioStream Transaction contemplates a purchase price to be paid in accordance with the following payment schedule (the “**Purchase Price**”):
- (a) 25% to be paid upon Ivys entering into a contract with Brightmark to complete the 5 Biostream Units; and
 - (b) five instalments to be paid upon having conducted a factory acceptance test of each of the 5 Biostream Units;
59. The Binding LOI also includes the following key terms:
- (a) all payments to be made by Ivys pursuant to the BioStream Transaction will be made directly to the Monitor;
 - (b) a refundable deposit equivalent to 5% of the Purchase Price is to be made by Ivys to the Monitor on or before May 24, 2023;
 - (c) the Biostream Assets are being sold on an “as is, where is” basis without any legal warranty and at the risk and peril of Ivys;

- (d) it is a condition of the Binding LOI that the Biostream AVO be issued by this Court and the U.S. Bankruptcy Court grant an order recognizing the Biostream AVO and approving the Biostream Transaction;
- (e) Ivys and UEC will use their best efforts to enter into an asset purchase agreement reflecting the terms of the Binding LOI on or before May 31, 2023; and
- (f) the Biostream Transaction must close on or before June 16, 2023.

A copy of the Binding LOI is communicated herewith *under seal* as **Exhibit P-5**.

- 60. It is also a key condition of the Binding LOI that this Court grant FormerXBC a charge on the 5 Biostream Units in the amount of the Purchase Price to secure all payment obligations of Ivys towards FormerXBC pursuant to the Biostream Transaction (the “**Biostream Charge**”).
- 61. The Biostream Transaction contemplates that following the initial payment the Biostream Charge will be discharged on a unit-by-unit basis following receipt of each of the five subsequent payments by the Monitor, save and except for the charge on the last of the 5 Biostream Units, which will only be discharged upon receipt by the Monitor of the balance of the Purchase Price.

B. Grounds for Approval of the Biostream Transaction

- 62. The Petitioners believe that the Purchase Price for the sale of Purchased Assets is reasonable and fair in the circumstances and that the expedited closing of the Biostream Transaction will benefit all stakeholders.
- 63. The Biostream Charge is necessary and benefits FormerXBC in ensuring that the Purchase Price will be paid in full.
- 64. The Petitioners are confident that, should this Court grant this Application, the remaining conditions to closing will be satisfied and should lead to the closing of the Biostream Transaction.
- 65. Should the Court authorize the Biostream Transaction, the Petitioners will be proceeding before the U.S. Bankruptcy Court to obtain recognition of the Biostream AVO.
- 66. The Petitioners understand that the Monitor supports the Biostream Transaction.

C. Grounds for the Sealing of Confidential Documents

- 67. The Petitioners are seeking an order declaring that the Binding LOI be kept strictly confidential and under seal.

68. The sealing is necessary considering that disclosing the Purchase Price may affect the Petitioners' ability to monetize the Biostream Assets should the Biostream Transaction not close.

VIII. CONCLUSION

69. The Monitor has informed the Petitioners that it supports the present Application.
70. The Petitioners respectfully submit that they are justified to seek provisional execution of the order to be rendered on the present Application notwithstanding appeal, given the need to advance the restructuring process as quickly as possible.
71. For the reasons set forth above, the Petitioners respectfully submit that it is both appropriate and necessary that this Honourable Court render the orders sought herein.

FOR THESE REASONS, MAY IT PLEASE THIS HONOURABLE COURT TO:

GRANT the present *Application for (i) an Extension of the Stay of Proceedings, (ii) the Establishment of a Claims Process, (iii) the Authorization to Use Net Proceeds to Fund Cash-Flow Requirements and (iv) the Issuance of an Approval and Vesting Order in Respect of BioStream Assets of FormerXBC Systems USA, LLC (Formerly Xebec Systems USA, LLC)* (the "**Application**");

ISSUE an order substantially in the form of the draft Order Extending the Stay of Proceedings communicated in support of the Application as **Exhibit P-1**;

ISSUE an order substantially in the form of the draft Claims Procedure Order communicated in support of the Application as **Exhibit P-2**;

ISSUE an order substantially in the form of the draft Order Authorizing the Use of Net Proceeds to Fund Cash-Flow Requirements communicated in support of the Application as **Exhibit P-3**;

ISSUE an order substantially in the form of the draft Approval and Vesting Order communicated in support of the Application as **Exhibit P-4**;

ORDER the provisional execution of the order to be rendered on the Application notwithstanding appeal and without security;

THE WHOLE WITHOUT COSTS, save in the event of contestation.

MONTREAL, May 19, 2023

Osler, Hoskin & Harcourt LLP

Osler, Hoskin & Harcourt LLP

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Our file: 1233913

AFFIDAVIT

I the undersigned, Dimitrios Vounassis, domiciled for the purpose hereof at 1000 De La Gauchetière Street West, Suite 2100, Montréal, Québec, H3B 4W5, solemnly declare the following:

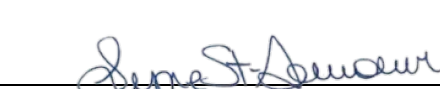
1. I am the President and CEO of FormerXBC Inc. (formerly Xebec Adsorption Inc.) and a duly authorized representative of the Debtors / Petitioners for the purposes hereof.
2. I have taken cognizance of the attached *Application for (i) an Extension of the Stay of Proceedings, (ii) the Establishment of a Claims Process, (iii) the Authorization to Use Net Proceeds to Fund Cash-Flow Requirements and (iv) the Issuance of an Approval and Vesting Order in Respect of BioStream Assets of FormerXBC Systems USA, LLC (Formerly Xebec Systems USA, LLC) (the "Application")*.
3. All of the facts alleged in the Application of which I have personal knowledge are true.
4. Where the facts alleged in the Application have been obtained from others, I believe them to be true.

AND I HAVE SIGNED:



Dimitrios Vounassis

SOLEMNLY DECLARED BEFORE ME BY
VIRTUAL MEANS IN SAINT-CONSTANT,
QUÉBEC, ON MAY 19, 2023.



LYNE ST-AMOUR
Commissioner for Oaths for the Province of
Québec

**NOTICE OF PRESENTATION
COMMERCIAL DIVISION**

TO: SERVICE LIST (See attached)

1. PRESENTATION OF THE PROCEEDING

TAKE NOTE that the *Application for (i) an Extension of the Stay of Proceedings, (ii) the Establishment of a Claims Process, (iii) the Authorization to Use Net Proceeds to Fund Cash-Flow Requirements and (iv) the Issuance of an Approval and Vesting Order in Respect of BioStream Assets of FormerXBC Systems USA, LLC (Formerly Xebec Systems USA, LLC)* will be presented for adjudication before the Commercial Division of the Superior Court of Québec, in Courtroom **16.04** of the Montréal Courthouse during the virtual calling of the roll on **May 24, 2023, at 9:30 a.m.**

2. HOW TO JOIN THE VIRTUAL CALLING OF THE ROLL

The contact information to join the virtual calling of the roll in room 16.04 is as follows:

By Teams: by clicking on the link available at <http://www.tribunaux.qc.ca> ("*Liens TEAMS pour rejoindre les salles du Palais de justice*"):

You must then enter your name and click "Join now" ("*Rejoindre maintenant*"). To facilitate the process and the identification of participants, we ask that you enter your name in the following manner:

Attorneys: Mtre Name, Surname (name of party represented)

Trustees: Name, Surname (trustee)

Superintendent: Name, Surname (superintendent)

Parties not represented by an attorney: Name, Surname (specify: plaintiff, defendant, applicant, respondent, creditor, opposing party, or other)

Persons attending a public hearing may simply indicate "public".

By telephone:

Canada, Québec (Charges will apply): +1 581-319-2194

Canada (Toll-free): (833) 450-1741

Conference ID: 516 211 860#

By VTC videoconference: teams@teams.justice.gouv.qc.ca

Videoconference ID: 1149478699

In person: If and only if you do not have access to one of the above-mentioned technological means. You may then go to room 16.04 of the Montréal Courthouse located at:

1, Notre-Dame Street East, Montréal, Québec.

3. DEFAULT TO PARTICIPATE IN THE VIRTUAL CALLING OF THE ROLL

TAKE NOTICE that in accordance with the Second Amended and Restated Initial Order, if you wish to contest this Application, you must serve responding materials or a notice stating the objection to the Application and the grounds for such objection in writing to the Petitioners and the Monitor, with a copy to all persons on the Service List, no later than **5:00 P.M. on May 21, 2023**, and participate at the virtual calling of the roll, failing which, judgment may be rendered during the presentation of the proceeding, without further notice or delay.

4. OBLIGATIONS

4.1 Duty of cooperation

TAKE NOTE that the parties are duty-bound to cooperate and, in particular, to keep one another informed at all times of the facts and particulars conducive to a fair debate and make sure that relevant evidence is preserved (s. 20, *Code of Civil Procedure*).

4.2 Dispute prevention and resolution processes

TAKE NOTE that the parties must consider private prevention and resolution processes before referring their dispute to the courts, which are namely negotiation, mediation or arbitration, for which the parties call on a third party (*Code of Civil Procedure*, art. 2).

DO GOVERN YOURSELF ACCORDINGLY.

MONTREAL, May 19, 2023

Osler, Hoskin & Harcourt LLP

Osler, Hoskin & Harcourt LLP
Attorneys for the Debtors / Petitioners

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

SUPERIOR COURT
(Commercial Division)

(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, RSC 1985,
c. C-36)

No.: 500-11-061483-224

**IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF:**

FORMERXBC INC. (formerly **XEBEC ADSORPTION
INC.**)

-and-

11941666 CANADA INC. (formerly **XEBEC RNG
HOLDINGS INC.**)

-and-

APPLIED COMPRESSION SYSTEMS LTD.

-and-

1224933 ONTARIO INC. (formerly **COMPRESSED
AIR INTERNATIONAL INC.**)

-and-

FORMERXBC HOLDING USA INC. (formerly
XEBEC HOLDING USA INC.)

-and-

ENERPHASE INDUSTRIAL SOLUTIONS, INC.

-and-

CDA SYSTEMS, LLC

-and-

FORMERXBC ADSORPTION USA INC. (formerly
XEBEC ADSORPTION USA INC.)

-and-

FORMERXBC PENNSYLVANIA COMPANY
(formerly **THE TITUS COMPANY**)

-and-

FORMERXBC NOR CORPORATION (formerly
NORTEKBELAIR CORPORATION)

-and-

FORMERXBC FLOW SERVICES – WISCONSIN INC. (formerly **XBC FLOW SERVICES – WISCONSIN INC.**)

-and-

CALIFORNIA COMPRESSION, LLC

-and-

FORMERXBC SYSTEMS USA, LLC (formerly **XBEC SYSTEMS USA, LLC**)

Debtors / Petitioners

-and-

DELOITTE RESTRUCTURING INC.

Monitor

LIST OF EXHIBITS

- | | |
|-------|--|
| P-1: | Draft Order Extending the Stay of Proceedings |
| P-2: | Draft Claims Procedure Order |
| P-3: | Draft Order Authorizing the Use of the Net Proceeds to Fund Cash-Flow Requirements |
| P-4: | Draft Approval and Vesting Order |
| P-4A: | Comparison between the Biostream AVO and the model approval and vesting order published by the Barreau de Montréal |
| P-5: | Ivys Binding Letter of Intent for Purchase of the Biostream WIP and Inventory, UNDER SEAL |

MONTREAL, May 19, 2023

Osler, Hoskin & Harcourt LLP

Osler, Hoskin & Harcourt LLP
Attorneys for Debtors / Petitioners

EXHIBIT P-1

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-061483-224

DATE: May 24, 2023

BEFORE THE HONOURABLE CHRISTIAN IMMER, J.S.C.

IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF:

**FORMERXBC INC. (FORMERLY XEBEC ADSORPTION INC.)
11941666 CANADA INC. (FORMERLY XEBEC RNG HOLDINGS INC.)
APPLIED COMPRESSION SYSTEMS LTD.
1224933 ONTARIO INC. (FORMERLY COMPRESSED AIR INTERNATIONAL INC.)
FORMERXBC HOLDING USA INC. (FORMERLY XEBEC HOLDING USA INC.)
ENERPHASE INDUSTRIAL SOLUTIONS, INC.
CDA SYSTEMS, LLC
FORMERXBC ADSORPTION USA INC. (FORMERLY XEBEC ADSORPTION USA INC.)
FORMERXBC PENNSYLVANIA COMPANY (FORMERLY THE TITUS COMPANY)
FORMERXBC NOR CORPORATION (FORMERLY NORTEKBELAIR CORPORATION)
FORMERXBC FLOW SERVICES – WISCONSIN INC. (FORMERLY XBC FLOW
SERVICES – WISCONSIN INC.)
CALIFORNIA COMPRESSION, LLC
FORMERXBC SYSTEMS USA, LLC (FORMERLY XEBEC SYSTEMS USA, LLC)**
Debtors / Petitioners

and

DELOITTE RESTRUCTURING INC.
Monitor

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ORDER EXTENDING THE STAY OF PROCEEDINGS

- [1] **CONSIDERING** the *Application for (i) an Extension of the Stay of Proceedings, (ii) the Establishment of a Claims Process, (iii) the Authorization to Use Net Proceeds to Fund Cash-Flow Requirements and (iv) the Issuance of an Approval and Vesting Order in Respect of BioStream Assets of FormerXBC Systems USA, LLC (Formerly Xebec Systems USA, LLC) (the “Application”) pursuant to the Companies’ Creditors Arrangement Act, RSC 1985, c C-36, as amended (“CCAA”) and the exhibits and the affidavit of Mr. Dimitrios Vounassis, filed in support thereof;*
- [2] **CONSIDERING** the Tenth Report of the Monitor dated May [●], 2023;
- [3] **CONSIDERING** the submissions of counsel;
- [4] **GIVEN** the provisions of the CCAA;
- [5] **GIVEN** the Fifth Amended and Restated Initial Order rendered by the Court on March 27, 2023 (the “**Fifth ARIO**”);

THE COURT HEREBY:

- [6] **GRANTS** the Application.
- [7] **EXTENDS** the Stay Period (as defined in the Fifth ARIO) to and including September 29, 2023.
- [8] **DECLARES** that this Order and all other orders in these proceedings shall have full force and effect in all provinces and territories in Canada.
- [9] **REQUESTS** the aid and recognition of any Court, tribunal, regulatory or administrative body in any Province of Canada and any Canadian federal court or in the United States of America, including without limitation the United States Bankruptcy Court for the District of Delaware, and any court or administrative body elsewhere, to give effect to this Order and to assist the Petitioners, the Monitor and their respective agents in carrying out the terms of this Order.
- [10] **ORDERS** the provisional execution of this Order notwithstanding appeal and without security.

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[11] **THE WHOLE WITHOUT COSTS.**

Christian Immer, J.S.C.

MTRE SANDRA ABITAN
MTRE JULIEN MORISSETTE
MTRE ILIA KRAVTSOV
MTRE SOPHIE COURVILLE
(OSLER HOSKIN & HARCOURT LLP)
COUNSEL TO THE PETITIONERS

Hearing date: May 24, 2022

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EXHIBIT P-2

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-061483-224

DATE: May 24, 2023

BEFORE THE HONOURABLE CHRISTIAN IMMER, J.S.C.

IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF:

**FORMERXBC INC. (FORMERLY XEBEC ADSORPTION INC.)
11941666 CANADA INC. (FORMERLY XEBEC RNG HOLDINGS INC.)
APPLIED COMPRESSION SYSTEMS LTD.
1224933 ONTARIO INC. (FORMERLY COMPRESSED AIR INTERNATIONAL INC.)
FORMERXBC HOLDING USA INC. (FORMERLY XEBEC HOLDING USA INC.)
ENERPHASE INDUSTRIAL SOLUTIONS, INC.
CDA SYSTEMS, LLC
FORMERXBC ADSORPTION USA INC. (FORMERLY XEBEC ADSORPTION USA INC.)
FORMERXBC PENNSYLVANIA COMPANY (FORMERLY THE TITUS COMPANY)
FORMERXBC NOR CORPORATION (FORMERLY NORTEKBELAIR CORPORATION)
FORMERXBC FLOW SERVICES – WISCONSIN INC. (FORMERLY XBC FLOW
SERVICES – WISCONSIN INC.)
CALIFORNIA COMPRESSION, LLC
FORMERXBC SYSTEMS USA, LLC (FORMERLY XEBEC SYSTEMS USA, LLC)**
Debtors / Petitioners

and

DELOITTE RESTRUCTURING INC.
Monitor

CLAIMS PROCEDURE ORDER

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500-11-057985-208

-
- [1] **CONSIDERING** the *Application for (i) an Extension of the Stay of Proceedings, (ii) the Establishment of a Claims Process, (iii) the Authorization to Use Net Proceeds to Fund Cash-Flow Requirements and (iv) the Issuance of an Approval and Vesting Order in Respect of BioStream Assets of FormerXBC Systems USA, LLC. (Formerly Xebec Systems USA, LLC) (the “Application”) pursuant to the Companies’ Creditors Arrangement Act, RSC 1985, c C-36, as amended (“CCAA”) and the exhibits and the affidavit of Mr. Dimitrios Vounassis, filed in support thereof;*
- [2] **CONSIDERING** the Tenth Report of the Monitor dated May ●, 2023;
- [3] **CONSIDERING** the submissions of counsel;
- [4] **CONSIDERING** the provisions of the CCAA;
- [1] **GIVEN** the Fifth Amended and Restated Initial Order rendered by the Court on March 27, 2023 (the “**Fifth ARIO**”);

THE COURT HEREBY:

- [5] **GRANTS** the Application.
- [6] **ISSUES** an order pursuant to the CCAA (the “**Order**”), divided under the following headings:
- (a) Service;
 - (b) Definitions;
 - (c) Notification Procedure;
 - (d) Excluded Claims;
 - (e) Claims Procedure;
 - (f) Evidence that Claim was Paid;
 - (g) Transfer of Claims;
 - (h) Notices and Communications;
 - (i) Aid and Assistance of Other Courts;
 - (j) General Provisions.

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A. SERVICE

- [7] **ORDERS** that any prior delay for the presentation of this Application is hereby abridged and validated so that the Application is properly returnable today and hereby dispenses with further service thereof.
- [8] **DECLARES** that sufficient prior notice of the presentation of this Application has been given by the Petitioner.

B. DEFINITIONS

- [9] **ORDERS** that the following terms in this Order shall, unless otherwise indicated, have the following meanings ascribed thereto:
- (a) **“Business Day”** means a day, other than a Saturday, a Sunday, or another day on which courts do not sit pursuant to article 82 of the *Code of Civil Procedure*, CQLR c C-25.01, as amended;
 - (b) **“CCAA Proceedings”** means the proceedings in respect of the Debtors before the Court commenced pursuant to the CCAA;
 - (c) **“Claim”** means any right or claim of any Person against the Debtors, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind of the Debtors owed to such Person and any interest accrued thereon or costs payable in respect thereof, whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts existing prior to the Determination Date, or which would have been claims provable in bankruptcy had the Debtors become bankrupt on the Determination Date, and, without limitation, shall include any Restructuring Claim or D&O Claim, provided however, that in no case shall a Claim include an Excluded Claim;
 - (d) **“Claims Bar Date”** means 5:00 p.m. (Montréal time) on **July 24, 2023**;
 - (e) **“Claims Package”** means a notice to the Known Creditors of the Claims Process and of the Claims Bar Date, including a reference to the Monitor’s website to access a copy of this Order, including:

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- (i) For all Creditors other than the Scheduled Employees, a Proof of Claim and an instruction letter explaining how to complete the Proof of Claim; and
 - (ii) For the Scheduled Employees, a Notice of Scheduled Employee's Claim and a Notice of Dispute in the case an employee is dissatisfied with its scheduled claim, and an instruction letter;
- (f) **"Claims Process"** means the claims process set forth herein including the Schedules to this Order;
- (g) **"Court"** means the Superior Court of Québec (Commercial Division);
- (h) **"Creditor"** means any Person having a Claim and may, where the context requires, include the assignee of a Claim or a trustee, interim receiver, receiver, receiver and manager, or other Person acting on behalf of such Person and includes a Known Creditor. A Creditor shall not include an Excluded Creditor in respect of that Person's claim resulting from an Excluded Claim;
- (i) **"Creditors' List"** means a list of all Known Creditors;
- (j) **"Creditors' Meeting"** means any meeting of the Debtors' Creditors to be convened, with leave of the Court, for the purposes of voting on the Plan, and any adjournment or suspension thereof;
- (k) **"D&O Claim"** means a claim as defined in paragraph 11.03(1) CCAA as well as any claim by any Person against the Directors and Officers of the Debtors of any nature whatsoever, present, future, due or accruing due to such Person and any interest accrued thereon or cost payable in respect thereof, whether liquidated, unliquidated, contingent, matured, unmatured, disputed, undisputed, secured, unsecured, known or unknown, and the right or ability of any Person to advance a claim for contribution, indemnity or otherwise with respect to any matter, action or cause, which indebtedness, liability or obligations is based in whole or in part on facts existing as at the Determination Date;
- (l) **"Debtors"** means the Debtors / Petitioners FormerXBC Inc. (formerly Xebec Adsorption Inc.), 11941666 Canada Inc. (formerly Xebec RNG Holdings Inc.), Applied Compression Systems Ltd., 1224933 Ontario Inc. (formerly Compressed Air International Inc.), FormerXBC Holding USA Inc. (formerly Xebec Holding USA Inc.), Enerphase Industrial Solutions, Inc., California Compression, LLC, CDA Systems, LLC, FormerXBC Adsorption Inc. (formerly Xebec Adsorption USA Inc.), FormerXBC Pennsylvania Company (formerly The Titus Company), FormerXBC NOR Corporation (formerly

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Nortekbelair Corporation), FormerXBC Systems USA, LLC (formerly Xebec Systems USA, LLC) and FormerXBC Flow Services – Wisconsin Inc. (formerly XBC Flow Services – Wisconsin Inc.).

- (m) **“Designated Newspapers”** means the Globe & Mail (National Edition), La Presse+, USA Today (National Edition);
- (n) **“Determination Date”** means September 29, 2022;
- (o) **“Disclaimer Notice”** means any notice from the Debtors under section 32 CCAA or otherwise pursuant to which any contract, lease, employment agreement, or other agreement is repudiated, disclaimed or terminated;
- (p) **“Disputed Claim”** means a claim which is disputed pursuant to the receipt by a Creditor of a Notice of Revision or Disallowance;
- (q) **“Director”** means anyone who is or was or may be deemed to be or to have been, whether by statute, operation of law or otherwise, a director or *de facto* director of any of the Debtors, in such capacity;
- (r) **“Excluded Claim”** means:
 - (i) any claim that may be asserted by any beneficiary of the Administration Charge, the D&O Charge (as defined in the Fifth ARIO), the KERP Charge and any other claims secured by any other charges that may be ordered by the Court;
 - (ii) any right of any Person against the Debtors in connection with any indebtedness or obligation of any kind which came into existence on or after the Determination Date (other than a Restructuring Claim) and any interest thereon, including any obligation of the Debtors toward creditors who have supplied or shall supply services, utilities, goods or materials or who have or shall have advanced funds to the Debtors after the Determination Date, but only to the extent of their claims in respect of the supply of such services, utilities, goods, materials or funds after the Determination Date and to the extent that such claims are not otherwise affected by the Plan; and
 - (iii) any claim by any Person who has renounced to its rights to file a claim;
- (s) **“Excluded Creditor”** means a Person having a Claim in respect of an Excluded Claim but only in respect of such Excluded Claim and to the extent that the Plan does not otherwise affect such Claim;

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- (t) **“Known Creditor”** means a Creditor whose Claim is included in the Debtors’ books and records or whose Claim or potential Claim is otherwise known by the Debtors;
- (u) **“Monitor”** means Deloitte Restructuring Inc., in its capacity as monitor pursuant to the Fifth ARIO, and not in its personal or corporate capacity;
- (v) **“Newspaper Notice”** means the notice of this Order to be published in the Designated Newspapers on the Publication Date in accordance with paragraph [12], which shall set out the Claims Bar Date, being substantially in the form of Schedule A hereto;
- (w) **“Notice of Dispute”** means a written notice, substantially in the form of Schedule B hereto, delivered to the Monitor by a Scheduled Employee who has received a Notice of Scheduled Employee’s Claim and who intends to dispute such Notice of Scheduled Employee’s Claim, which shall include all reasons for such dispute;
- (x) **“Notice of Scheduled Employee’s Claim”** means a notice, substantially in the form of Schedule C hereto, to be sent to each of the Scheduled Employees;
- (y) **“Notice of Revision or Disallowance”** means a notice, substantially in the form of Schedule D hereto, advising a Creditor that the Monitor has revised or rejected all or part of its Proof of Claim, or his/her/its Notice of Dispute in the case of a Scheduled Employee, for the purposes of voting or distribution and setting out the reasons for such revision or rejection;
- (z) **“Officer”** means anyone who is or was or may be deemed to be or have been whether by statute, operation of law or otherwise, an officer or *de facto* officer of the Debtors, in such capacity;
- (aa) **“Person”** means any individual, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, governmental body or agency, or any other entity;
- (bb) **“Plan”** means a plan or several plans to be filed by the Debtors pursuant to the CCAA, as such plan or plans may be amended or supplemented from time to time;
- (cc) **“Proof of Claim”** means the form of Proof of Claim for Creditors other than the Scheduled Employees, being substantially in the form of Schedule E hereto;

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- (dd) **“Proven Claim”** means the amount of a Claim which has been finally determined for voting and distribution purposes in accordance with this Claims Process;
- (ee) **“Publication Date”** means the date on which the publication of the Newspaper Notice in all of the Designated Newspapers has been completed;
- (ff) **“Restructuring Claim”** means any right of any Person against the Debtors in connection with any indebtedness, liability or obligation of any kind owed to such Person arising out of the restructuring, repudiation, or termination of any contract, lease, employment agreement, collective agreement or other agreement, whether written or oral, after the Determination Date, including any right of any Person who receives a Disclaimer Notice from the Debtors; provided, however, that a Restructuring Claim shall not include an Excluded Claim;
- (gg) **“Restructuring Claims Bar Date”** means, in respect of a Restructuring Claim, the later of (i) thirty (30) days after the date on which the Monitor sends a Claims Package (but only in the event that the Creditor receives a Disclaimer Notice after the date of this Order) or (ii) the Claims Bar Date;
- (hh) **“Scheduled Employees”** means those Creditors who are or were employed by the Debtors and whose Claims are assessed by the Debtors;
- (ii) **“Schedules”** means the Schedules A to E to this Order;
- (jj) **“Voting Claim”** of a Creditor means the Proven Claim of the Creditor unless the Proven Claim of the Creditor is not finally determined at the time of the Creditors’ Meeting, in which case it means the Claim of the Creditor which is accepted for voting purposes in accordance with the provisions of this Order, the Plan and the CCAA.

C. NOTIFICATION PROCEDURE

- [10] **ORDERS** that the form of Newspaper Notice, which is hereby approved, shall be published by the Monitor in the Designated Newspapers as soon as possible following the issuance of this Order, but in any event no later than **June 5, 2023**.
- [11] **ORDERS** that the Monitor shall publish, on or before 5:00 p.m. (Montréal time) on **May 31, 2023**, on its website at <https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx>, a copy of the Creditors’ List and of the Claims Package.

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- [12] **ORDERS** that, in addition to the publication referred to in paragraph [11], the Monitor shall send, by regular mail, courier, email or other means of electronic communication a copy of the Claims Package to each Known Creditor, other than the Scheduled Employees, by no later than 5:00 p.m. (Montréal time) on **June 22, 2023**.
- [13] **ORDERS** that the Monitor shall send, by regular mail, courier, email or other means of electronic communication to each Scheduled Employee his/her Notice of Scheduled Employee's Claim, together with a copy of the Claims Package, by no later than 5:00 p.m. (Montréal time) on **June 22, 2023**.
- [14] **ORDERS** that any Scheduled Employee who wishes to dispute the amount of his/her Claim as set out in the Notice of Scheduled Employee's Claim sent to him/her must return his/her duly completed Notice of Dispute to the Monitor by no later than the Claims Bar Date (or the Restructuring Claims Bar Date if he or she received a Disclaimer Notice after the date of this Order). Upon receipt of any Notice of Dispute, the Monitor shall forthwith provide a copy thereof to the Debtors.
- [15] **ORDERS** that any Scheduled Employee who does not file a Notice of Dispute with the Monitor by the Claims Bar Date (or the Restructuring Claims Bar Date if he or she received a Disclaimer Notice after the date of this Order) shall be deemed to have accepted the amount set out in the Notice of Scheduled Employee's Claim and be entitled to vote at the Creditors' Meeting and shall be entitled to receive any distributions pursuant to the Plan (to the extent that the holders of such Claims are entitled to vote upon and receive distributions under the Plan) only with respect to his/her Claim, if any, as set out in the Notice of Scheduled Employee's Claim and the remainder of his/her Claim, if any, shall be extinguished and forever barred.

D. EXCLUDED CLAIMS

- [16] **ORDERS** that Excluded Claims are excluded from the Claims Process and that no Proof of Claim is required to be filed in respect therewith.

E. CLAIMS PROCEDURE

- [17] **ORDERS** that, unless otherwise authorized by this Court, a Creditor, other than a Scheduled Employee, who does not file a Proof of Claim by the Claims Bar Date (or by the Restructuring Claims Bar Date if it received a Disclaimer Notice after the date of this Order) shall not be entitled to any further notice, shall not be entitled to participate as a Creditor in these proceedings, shall not be entitled to vote on any matter in these CCAA Proceedings, including the Plan, and shall be forever barred

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from advancing a Claim against the Debtors or the Directors and Officers of the Debtors, or from receiving a distribution under the Plan.

[18] **ORDERS** that the following procedure shall apply where a Creditor, other than a Scheduled Employee, files a Proof of Claim on or before the Claims Bar Date (or the Restructuring Claims Bar Date if such Creditor received a Disclaimer Notice after the date of this Order):

- (a) the Monitor, together with the Debtors, shall review the Proof of Claim to value the amounts and terms set out therein for voting and distribution purposes. Where applicable, the Monitor shall send the Creditor a Notice of Revision or Disallowance by regular mail, courier, email or other means of electronic communication;
- (b) the Creditor who receives a Notice of Revision or Disallowance and wishes to dispute it shall, within fifteen (15) calendar days of the receipt of the Notice of Revision or Disallowance, file an appeal application with the Court and serve a copy of such appeal application to the Debtors and the Monitor;
- (c) unless otherwise authorized by this Court, if the Creditor does not file an appeal application within the delay provided for in (b) above, such Creditor shall be deemed to have accepted the value of its Claim as set out in the Notice of Revision or Disallowance;

where the Creditor appeals from the Notice of Revision or Disallowance or its Claim has not been finally determined prior to the date of any Creditors' Meeting, the Monitor, in consultation with the Debtors, will determine the amount of the Voting Claim without admission that such quantification is acceptable for distribution purposes.

[19] **ORDERS** that the following procedure shall apply where a Scheduled Employee files a Notice of Dispute on or before the Claims Bar Date (or the Restructuring Claims Bar Date if such Scheduled Employee received a Disclaimer Notice after the date of this Order):

- (a) the Monitor, together with the Debtors, shall review the Notice of Dispute to value the amounts and terms set out therein for voting and distribution purposes. Where applicable, the Monitor shall send the Scheduled Employee a Notice of Revision or Disallowance by regular mail, courier, email or other means of electronic communication;
- (b) the Scheduled Employee who receives a Notice of Revision or Disallowance and wishes to dispute it shall, within twenty (20) days of the receipt of the Notice of Revision or Disallowance, file an appeal application

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with the Court and serve a copy of such appeal application to the Debtors and the Monitor;

- (c) unless otherwise authorized by this Court, if the Scheduled Employee does not file an appeal application within the delay provided in (b) above, such Scheduled Employee shall be deemed to have accepted the value of his/her Claim as set out in the Notice of Revision or Disallowance;
- (d) where the Scheduled Employee appeals from the Notice of Revision or Disallowance or his/her Claim has not been finally determined prior to the date of any Creditors' Meeting, the Monitor, in consultation with the Debtors, will determine the amount of the Voting Claim without admission that such quantification is acceptable for distribution purposes.

F. EVIDENCE THAT CLAIM WAS PAID

- [20] **ORDERS** that, should the Monitor receive evidence satisfactory to it that the Claim of a Creditor was paid in part or in full by a party other than the Debtors prior to the Determination Date, such Claim shall be reduced or rejected, for the purposes of distributions under the Plan.

G. TRANSFER OF CLAIMS

- [21] **ORDERS** that if the holder of a Claim transfers or assigns the whole of such Claim to another Person, neither the Monitor nor the Debtors shall be obligated to give notice or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until written notice of such transfer or assignment, together with evidence satisfactory to the Monitor, in its sole discretion, of such transfer or assignment, has been received by the Monitor and the Monitor has provided written confirmation acknowledging the transfer or assignment of such Claim, and thereafter such transferee or assignee shall for the purposes hereof constitute the "Creditor" in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Order prior to receiving written confirmation by the Monitor acknowledging such assignment or transfer. After the Monitor has delivered a written confirmation acknowledging the notice of the transfer or assignment of a Claim, the Debtors and the Monitor shall thereafter be required only to deal with the transferee or assignee and not the original holder of the Claim. A transferee or assignee of a Claim takes the Claim subject to any defences and rights of set-off or compensation to which the Debtors may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set-off, compensate, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by

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such Person to the Debtors. Reference to transfer in this Order includes a transfer or assignment whether absolute or intended as security.

- [22] **ORDERS** that if a Creditor or any subsequent holder of a Claim, who in any such case has previously been acknowledged by the Monitor as the holder of the Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person, such transfers or assignments shall not create separate Claims and such Claims shall continue to constitute and be dealt with as a single Claim notwithstanding such transfers or assignments. The Debtors and the Monitor shall not, in each case, be required to recognize or acknowledge any such transfers or assignments and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim, provided such Creditor may, by notice in writing delivered to the Monitor, direct that subsequent dealings in respect of such Claim, but only as a whole, shall be dealt with by a specified Person and in such event, such Person shall be bound by any notices given or steps taken in respect of such Claim with such Creditor or in accordance with the provisions of this Order.

H. NOTICES AND COMMUNICATIONS

- [23] **ORDERS** that any notice or other communication to be given under this Order by a Creditor to the Monitor or the Debtors shall be in writing in substantially the form, if any, provided for in this Order and will be sufficiently given only if given by courier or email communication addressed to:

Monitor: **Deloitte Restructuring Inc.**
La Tour Deloitte
500 - 1190 Av. des Canadiens-de-Montréal
Montréal, QC H3B 0M7
Attention: Jean-François Nadon
Julie Mortreux and
Frédéric Turbide
Email: jnadon@deloitte.ca
jmortreux@deloitte.ca
fturbide@deloitte.ca
frbeaudoin@deloitte.ca and
xebec_ccaa@deloitte.ca

With a copy to: **McCarthy Tétrault LLP**
1000 De La Gauchetière Street West
Suite MZ400
Montréal, QC H3B 0A2

Draft

500-11-057985-208

Attention: Mtre Jocelyn T. Perreault
Mtre Gabriel Faure
Mtre Marc-Étienne Boucher
Email: jperreault@mccarthy.ca
gfaure@mccarthy.ca
meboucher@mccarthy.ca and
notification@mccarthy.ca

Debtors: **Osler, Hoskin, Harcourt LLP**
1000 De La Gauchetière Street West
Suite 2100
Montréal, QC H3B 4W5
Attention: Mtre Sandra Abitan
Mtre Julien Morissette
Mtre Ilia Kravtsov and
Mtre Sophie Courville
Email: sabitan@osler.com
jmorissette@osler.com
ikravtsov@osler.com and
scourville@osler.com

[24] **ORDERS** that any document sent by the Monitor pursuant to this Order may be sent by regular mail, registered mail, courier, email or other means of electronic communication. A Creditor shall be deemed to have received any document sent pursuant to this Order two (2) Business Days after the document is sent by regular mail or registered mail and one (1) Business Day after the document is sent by courier, email or other means of electronic communication. Documents shall not be sent by regular or registered mail during a postal strike or work stoppage of general application.

I. AID AND ASSISTANCE OF OTHER COURTS

[25] **REQUESTS** the aid and recognition of any Court, tribunal, regulatory or administrative body in any Province of Canada and any Canadian federal court or in the United States of America, including without limitation the United States Bankruptcy Court for the District of Delaware, and any court or administrative body elsewhere, to give effect to this Order and to assist the Petitioners, the Monitor and their respective agents in carrying out the terms of this Order.

Draft

500-11-057985-208

J. GENERAL PROVISIONS

- [26] **ORDERS** that the following Schedules form part of this Claims Process:
 - (a) Schedule A – Newspaper Notice;
 - (b) Schedule B – Notice of Dispute;
 - (c) Schedule C – Notice of Scheduled Employee’s Claim;
 - (d) Schedule D – Notice of Revision or Disallowance;
 - (e) Schedule E – Proof of Claim and instruction letter;
- [27] **ORDERS** that the Monitor may make any amendments or modifications to the Schedules that are not material without seeking approval of this Court.
- [28] **ORDERS** that the Monitor is authorized and empowered to exercise all its powers hereunder.
- [29] **ORDERS** that for the purposes of this Order, all Claims that are denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada noon spot rate of exchange for exchanging currency to Canadian dollars on the Determination Date.
- [30] **ORDERS** that the Monitor shall use reasonable discretion as to the adequacy of completion and execution of any document completed and executed pursuant to this Order and, where the Monitor is satisfied that any matter to be proven under this Order has been adequately proven, the Monitor may waive strict compliance with the requirements of this Order as to the completion and execution of documents.
- [31] **ORDERS** that references in this Order to the singular include the plural, to the plural include the singular.
- [32] **ORDERS** that the Monitor may apply to this Court for advice and direction in connection with the discharge or variation of its powers and duties under this Order.
- [33] **ORDERS** the provisional execution of this Order notwithstanding appeal and without security.

THE WHOLE WITHOUT COSTS.

Draft

500-11-057985-208

Christian Immer, J.S.C.

MTRE SANDRA ABITAN
MTRE JULIEN MORISSETTE
MTRE ILIA KRAVTSOV
MTRE SOPHIE COURVILLE
(OSLER HOSKIN & HARCOURT LLP)
COUNSEL TO THE PETITIONERS

Hearing date: May 24, 2022

Draft



Schedule “A” – Newspaper Notice

NOTICE OF CLAIMS PROCEDURE ORDER

On September 29, 2022, the Superior Court of Québec (the “**Court**”) issued an initial order commencing proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) in respect of FORMERXBC INC. (formerly, Xebec Adsorption Inc.), 11941666 CANADA INC. (formerly, Xebec RNG Holdings Inc.), 1224933 Ontario Inc. (formerly, Compressed Air International Inc.), Applied Compression Systems Ltd., FORMERXBC Holding USA Inc. (formerly, Xebec Holding USA Inc.), Enerphase Industrial Solutions Inc., CDA Systems, LLC, FORMERXBC Adsorption USA Inc. (formerly, Xebec Adsorption USA Inc.), FORMERXBC Pennsylvania Company (formerly, The Titus Company), FORMERXBC NOR Corporation (formerly, Nortekbelair Corporation), FORMERXBC Flow Services – Wisconsin Inc. (formerly, XBC Flow Services – Wisconsin Inc.), California Compression, LLC and FORMERXBC Systems USA, LLC (formerly Xebec Systems USA, LLC) (collectively the “**Petitioners**” or the “**Debtors**”) and appointing Deloitte Restructuring Inc. (the “**Monitor**”) as Monitor of the Debtors.

On September 30, 2022, FormerXBC Inc. (f/k/a Xebec Adsorption Inc.), in its capacity as the authorized foreign representative (the “**Foreign Representative**”) for the Debtors, commenced proceedings (the “**Chapter 15 Cases**”) under chapter 15 of title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the District of Delaware (the “**U.S. Court**”). On October 27, 2022, the U.S. Court entered that certain *Order Granting Recognition of Foreign Main Proceeding and Certain Related Relief*, pursuant to which, the U.S. Court recognized the CCAA Proceedings as a “foreign main proceeding” pursuant to chapter 15 of the Bankruptcy Code, recognized the Foreign Representative as the “foreign representative” in respect of the CCAA Proceedings, and recognized and granted comity to, and gave full force and effect in the United States to the CCAA Proceedings and the orders entered by the Canadian Court in the CCAA Proceedings.

Pursuant to an Order issued on May 24, 2023 (the “**Claims Procedure Order**”), the Canadian Court authorized the Monitor, with the assistance of the Debtors, to conduct a claims process (the “**Claims Process**”) with respect to Claims against the Debtors and their present and or former Directors and Officers. The Claims Procedure Order governs the filing and determination of all Claims against the Debtors. [Sentence to be inserted following the recognition hearing - On June [•], 2023, the U.S. Court entered an order recognizing, enforcing, and approving the Claims Process].

Pursuant to the Claims Procedure Order, any Person wishing to assert a Claim against any of the Debtors or against the Directors and Officers must do so through the Claims Process by filing a Proof of Claim with the Monitor on or before the Claims Bar Date, being 5:00 pm (Montreal time) on July 24, 2023 or, in the case of a Restructuring Claim, the later of (i) thirty (30) days after the date on which the Monitor sends a Claims Package

(but only in the event that the Creditor receives a Disclaimer Notice after the date of the Order) or (ii) the Claims Bar Date.

FOR THE AVOIDANCE OF DOUBT, THE CLAIMS PROCESS APPLIES TO ALL OF THE DEBTORS' CREDITORS, INCLUDING THOSE LOCATED IN THE UNITED STATES. ANY PERSON HAVING PREVIOUSLY FILED A PROOF OF CLAIM IN THE CHAPTER 15 CASES MUST FILE A PROOF OF CLAIM IN THE CCAA PROCEEDINGS. ANY PROOF OF CLAIM FILED IN THE CHAPTER 15 CASES WILL NOT BE RECOGNIZED IN THE CCAA PROCEEDINGS.

FAILURE BY A CREDITOR TO SUBMIT ITS CLAIM TO THE MONITOR ON OR BEFORE THE CLAIMS BAR DATE WILL RESULT IN SUCH CREDITOR'S CLAIM BEING BARRED AND FOREVER EXTINGUISHED AND PRECLUDE SUCH CREDITOR FROM RECEIVING A POTENTIAL DISTRIBUTION.

Please note that copies of the Claims Procedure Order, the Creditors' Instructions and other documents related to the Claims Process and to the CCAA Proceedings, generally, are available on the Monitor's Website at the following address:

<https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx>.

DATED AT MONTREAL, this 24th day of May, 2023.

DELOITTE RESTRUCTURING INC.

In its capacity as Court-appointed Monitor of
the Petitioners and not in its personal
capacity
1190 Avenue des Canadiens-de-Montréal,
Suite 500
Montreal QC H3B 0M7



Schedule B – Notice of Dispute (Scheduled Employees)

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF QUÉBEC**
No.: 500-11-061483-224

SUPERIOR COURT
(Commercial Division)

**IN THE MATTER OF THE *COMPANIES'*
CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, AS AMENDED:**

**FORMERXBC INC. (formerly, XEBEC
ADSORPTION INC.)
11941666 CANADA INC. (formerly, XEBEC
RNG HOLDINGS INC.)
1224933 ONTARIO INC. (formerly,
COMPRESSED AIR INTERNATIONAL INC.)
APPLIED COMPRESSION SYSTEMS LTD.
FORMERXBC HOLDING USA INC. (formerly,
XEBEC HOLDING USA INC.)
ENERPHASE INDUSTRIAL SOLUTIONS INC.
CDA SYSTEMS, LLC
FORMERXBC ADSORPTION USA INC.
(formerly, XEBEC ADSORPTION USA INC.)
FORMERXBC PENNSYLVANIA COMPANY
(formerly, THE TITUS COMPANY)
FORMERXBC NOR CORPORATION (formerly,
NORTEKBELAIR CORPORATION)
FORMERXBC FLOW SERVICES –
WISCONSIN INC. (formerly, XBC FLOW
SERVICES – WISCONSIN INC.)
CALIFORNIA COMPRESSION, LLC
- and -
FORMERXBC SYSTEMS USA, LLC (formerly
XEBEC SYSTEMS USA, LLC)**

Debtors/Petitioners

DELOITTE RESTRUCTURING INC.

Monitor

NOTICE OF DISPUTE

TO: Deloitte Restructuring Inc., in its capacity as the Court-appointed Monitor of the Petitioners

The creditor identified below, having received a Notice of a Scheduled Employee's Claim, as the case may be, hereby gives notice that the assessment of the claim as performed by the Debtors is hereby disputed, in the manner and for the reasons set out hereinbelow.

A. PARTICULARS OF THE CREDITOR:

- | | |
|--|-------|
| 1. Full Legal Name of the Creditor: | _____ |
| 2. Full Mailing Address of the Creditor: | _____ |
| | _____ |
| | _____ |
| 3. Telephone Number of the Creditor: | _____ |
| 4. Facsimile Number of the Creditor: | _____ |
| 5. E-mail Address of the Creditor: | _____ |

B. DISPUTE OF NOTICE RECEIVED:

The Scheduled Employee hereby disagrees with the value of his/her Claim as set out in the Notice of Scheduled Employee's Claim, dated _____, and instead declares that its Claim is as set out below:

If you are a Scheduled Employee complete the box below:

Claims as per Scheduled Employee as at _____, 2023	
	\$
Unpaid pre-filing salary	
Unpaid pre-filing commissions	
Unpaid pre-filing vacations	
Notice, severance, termination, etc.	
Expense reimbursements	
Other	
Total	
Allocated as follows:	
Priority contemplated in section 6(5) CCAA	
Residual claim	
Total	

Creditor of:

- ☐ FORMERXBC INC. (formerly, XEBEC ADSORPTION INC.)
- ☐ 11941666 CANADA INC. (formerly, XEBEC RNG HOLDINGS INC.)
- ☐ 1224933 ONTARIO INC. (formerly, COMPRESSED AIR INTERNATIONAL INC.)
- ☐ APPLIED COMPRESSION SYSTEMS LTD.

- ☐ FORMERXBC HOLDING USA INC. (formerly, XEBEC HOLDING USA INC.)
- ☐ ENERPHASE INDUSTRIAL SOLUTIONS INC.
- ☐ CDA SYSTEMS, LLC
- ☐ FORMERXBC ADSORPTION USA INC. (formerly, XEBEC ADSORPTION USA INC.)
- ☐ FORMERXBC PENNSYLVANIA COMPANY (formerly, THE TITUS COMPANY)
- ☐ FORMERXBC NOR CORPORATION (formerly, NORTEKBELAIR CORPORATION)
- ☐ FORMERXBC FLOW SERVICES – WISCONSIN INC. (formerly, XBC FLOW SERVICES – WISCONSIN INC.)
- ☐ CALIFORNIA COMPRESSION, LLC
- ☐ FORMERXBC SYSTEMS USA, LLC (formerly XEBEC SYSTEMS USA, LLC)

D. REASONS FOR DISPUTE:

(Provide full particulars of the Claim, supporting documentation and any required calculation. Use an appendix if space is insufficient)

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Dated at _____ this _____ day of _____, 2023.

(Signature of Witness)

(Signature of the Creditor or of his representative)

(Please print name)

(Please print name)

An electronic version of this form is available at
<https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx>

This Notice of Dispute must be returned to and received by the Debtors, to the attention of their counsel, and the Monitor by e-mail or courier service **by no later than 5:00 p.m. (Montreal time) on ●, 2023 at the addresses set forth below:**

Debtors' Counsel:

Osler, Hoskin, Harcourt LLP
1000 De La Gauchetière Street West
Suite 2100
Montréal, QC H3B 4W5

Attention:

Mtre Sandra Abitan
Mtre Julien Morissette
Mtre Ilia Kravtsov and
Mtre Sophie Courville

Email: sabitan@osler.com
jmorissette@osler.com
ikravtsov@osler.com and
scourville@osler.com

The Monitor:

Deloitte Restructuring Inc.

1190 avenue des Canadiens-de-Montréal
Suite 500, Montreal, QC, H3B 0M7, Canada

Attention:

Xebec claim process

Email: xebec_ccaa@deloitte.ca

Tel: 514-393-6722 Toll Free: 1-888-393-6722

And to the attention of:

Mr. Jean-François Nadon

Mme. Julie Mortreux

Mr. Frédéric Turbide

Email:

jnadon@deloitte.ca

jmortreux@deloitte.ca

fturbide@deloitte.ca

The Monitor's counsel:

McCarthy Tétrault LLP

To the attention of:

Mtre Jocelyn Perreault

Mtre Marc-Étienne Boucher

Email:

jperreault@mccarthy.ca

meboucher@mccarthy.ca



Schedule C – Notice of Scheduled Employee's Claim

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF QUÉBEC**
No.: 500-11-061483-224

SUPERIOR COURT
(Commercial Division)

**IN THE MATTER OF THE *COMPANIES'*
CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, AS AMENDED:**

**FORMERXBC INC. (formerly, XEBEC
ADSORPTION INC.)
11941666 CANADA INC. (formerly, XEBEC
RNG HOLDINGS INC.)
1224933 ONTARIO INC. (formerly,
COMPRESSED AIR INTERNATIONAL INC.)
APPLIED COMPRESSION SYSTEMS LTD.
FORMERXBC HOLDING USA INC. (formerly,
XEBEC HOLDING USA INC.)
ENERPHASE INDUSTRIAL SOLUTIONS INC.
CDA SYSTEMS, LLC
FORMERXBC ADSORPTION USA INC.
(formerly, XEBEC ADSORPTION USA INC.)
FORMERXBC PENNSYLVANIA COMPANY
(formerly, THE TITUS COMPANY)
FORMERXBC NOR CORPORATION (formerly,
NORTEKBELAIR CORPORATION)
FORMERXBC FLOW SERVICES –
WISCONSIN INC. (formerly, XBC FLOW
SERVICES – WISCONSIN INC.)
CALIFORNIA COMPRESSION, LLC
- and -
FORMERXBC SYSTEMS USA, LLC (formerly
XEBEC SYSTEMS USA, LLC)**

Debtors/Petitioners

DELOITTE RESTRUCTURING INC.

Monitor

NOTICE OF SCHEDULED EMPLOYEE'S CLAIM

TO: Deloitte Restructuring Inc., in its capacity as Court-appointed Monitor of the Petitioners

The Debtors have determined that you have a Claim in the aggregate amount set out below. Subject to any dispute by you in accordance with the provisions of the Claims Procedure Order, your Claim will be allowed as follows:

Claims as per Creditors as at _____, 2023 (in _____ \$)	
	\$
Unpaid pre-filing salary	
Unpaid pre-filing commissions	
Unpaid pre-filing vacations	
Notice, severance, termination, etc.	
Expense reimbursements	
Other	
Total	

CREDITOR OF:

- ☐ **FORMERXBC INC. (formerly, XEBEC ADSORPTION INC.)**
- ☐ **11941666 CANADA INC. (formerly, XEBEC RNG HOLDINGS INC.)**
- ☐ **1224933 ONTARIO INC. (formerly, COMPRESSED AIR INTERNATIONAL INC.)**
- ☐ **APPLIED COMPRESSION SYSTEMS LTD.**
- ☐ **FORMERXBC HOLDING USA INC. (formerly, XEBEC HOLDING USA INC.)**
- ☐ **ENERPHASE INDUSTRIAL SOLUTIONS INC.**
- ☐ **CDA SYSTEMS, LLC**
- ☐ **FORMERXBC ADSORPTION USA INC. (formerly, XEBEC ADSORPTION USA INC.)**
- ☐ **FORMERXBC PENNSYLVANIA COMPANY (formerly, THE TITUS COMPANY)**
- ☐ **FORMERXBC NOR CORPORATION (formerly, NORTEKBELAIR CORPORATION)**
- ☐ **FORMERXBC FLOW SERVICES – WISCONSIN INC. (formerly, XBC FLOW SERVICES – WISCONSIN INC.)**
- ☐ **CALIFORNIA COMPRESSION, LLC**
- ☐ **FORMERXBC SYSTEMS USA, LLC (formerly XEBEC SYSTEMS USA, LLC)**

An electronic version of this form is available at
<https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx>.

IF YOU INTEND TO DISPUTE THIS NOTICE OF SCHEDULED EMPLOYEE'S CLAIM, YOU MUST, NO LATER THAN 5:00 P.M. (MONTREAL TIME) ON • , 2023, DELIVER TO THE MONITOR AND THE ATTORNEYS OF THE DEBTORS A NOTICE OF DISPUTE IN ACCORDANCE WITH THE CLAIMS PROCESS ORDER AT THE ADDRESSES SET OUT BELOW.

Debtors' Counsel:

Osler, Hoskin, Harcourt LLP
1000 De La Gauchetière Street West
Suite 2100
Montréal, QC H3B 4W5

Attention:

Mtre Sandra Abitan
Mtre Julien Morissette
Mtre Ilia Kravtsov and
Mtre Sophie Courville

Email: sabitan@osler.com
jmorissette@osler.com
ikravtsov@osler.com and
scourville@osler.com

The Monitor:

Deloitte Restructuring Inc.
1190 avenue des Canadiens-de-Montréal
Suite 500, Montreal, QC, H3B 0M7, Canada

Attention:

Xebec claim process

Email: xebec_ccaa@deloitte.ca
Tel: 514-393-6722 Toll Free: 1-888-393-6722

And to the attention of:

Mr. Jean-François Nadon
Mme. Julie Mortreux
Mr. Frédéric Turbide

Email: jnadon@deloitte.ca
jmortreux@deloitte.ca
fturbide@deloitte.ca

The Monitor's counsel:

McCarthy Tétrault LLP

To the attention of:

Mtre Jocelyn Perreault
Mtre Marc-Étienne Boucher

Email: jperreault@mccarthy.ca
meboucher@mccarthy.ca



Schedule D - Notice of Revision or Disallowance

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
No.: 500-11-061483-224

SUPERIOR COURT
(Commercial Division)

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS
AMENDED:

FORMERXBC INC. (formerly, XEBEC ADSORPTION INC.)
11941666 CANADA INC. (formerly, XEBEC RNG
HOLDINGS INC.)
1224933 ONTARIO INC. (formerly, COMPRESSED AIR
INTERNATIONAL INC.)
APPLIED COMPRESSION SYSTEMS LTD.
FORMERXBC HOLDING USA INC. (formerly, XEBEC
HOLDING USA INC.)
ENERPHASE INDUSTRIAL SOLUTIONS INC.
CDA SYSTEMS, LLC
FORMERXBC ADSORPTION USA INC. (formerly, XEBEC
ADSORPTION USA INC.)
FORMERXBC PENNSYLVANIA COMPANY (formerly, THE
TITUS COMPANY)
FORMERXBC NOR CORPORATION (formerly,
NORTEKBELAIR CORPORATION)
FORMERXBC FLOW SERVICES – WISCONSIN INC.
(formerly, XBC FLOW SERVICES – WISCONSIN INC.)
CALIFORNIA COMPRESSION, LLC
- and -
FORMERXBC SYSTEMS USA, LLC (formerly XEBEC
SYSTEMS USA, LLC)

Debtors/Petitioners

DELOITTE RESTRUCTURING INC.

Monitor

NOTICE OF REVISION OR DISALLOWANCE

TO:

•

(the “**Creditor**”)

FROM:

Deloitte Restructuring Inc. in its capacity as Court-appointed Monitor of the
Petitioners

All capitalized terms used but not otherwise defined in this Notice of Revision or Disallowance (this “**Notice**”) have the meaning ascribed to them in the Claims Procedure Order issued by the Court on May 24, 2023 (the “**Claims Procedure Order**”).

This Notice is issued pursuant to the Claims Procedure Order and further to the Proof of Claim submitted by the Creditor (your “**Proof of Claim**”).

The Monitor hereby gives you notice that it has reviewed your Proof of Claim and has revised or disallowed the Claim set forth therein as follows:

NATURE AND VALUE OF CLAIM (in original currency)

i) Claim as at the Determination Date:

Amount claimed		Disallowed amount		Allowed amount		Currency
Unsecured	Secured	Unsecured	Secured	Unsecured	Secured	

ii) Restructuring Claim (arising on or after September 29, 2023):

Amount claimed		Disallowed amount		Allowed amount		Currency
Unsecured	Secured	Unsecured	Secured	Unsecured	Secured	

iii) Directors and/or Officers (a **D&O Claim**, as defined in the Claims Procedure Order):

Amount claimed	Disallowed amount	Allowed amount	Currency

REASONS FOR REVISION OR DISALLOWANCE:

The reasons for the revision or disallowance of your Claim are as follows:

-

If you disagree with the nature or value of your Claim as determined by the Monitor in this Notice (your “**Allowed Claim**”) and wish to dispute this Notice you must, within ten (10) calendar days of the date hereof, file an appeal application with the Court and serve a copy of such appeal application to Debtors and the Monitor at the following addresses:

The Debtors:	<p>Osler</p> <p>To the attention of: M^{re} Sandra Abitan M^{re} Julien Morissette M^{re} Ilia Kravstov M^{re} Sophie Courville-Le Bouyonnec</p> <p>Email: sabitan@osler.com jMorissette@osler.com ikravtsov@osler.com scourville@osler.com</p>
The Monitor:	<p>Deloitte Restructuring Inc.</p> <p>Att: Xebec - Claims Process 1190 avenue des Canadiens-de-Montréal Suite 500, Montreal, QC, H3B 0M7, Canada Email: xebec_ccaa@deloitte.ca Tel: 514-393-6722 Toll Free: 1-888-393-6722</p> <p>And to the attention of: Mr. Jean-François Nadon Mme. Julie Mortreux Mr. Frédéric Turbide</p> <p>Email: jnadon@deloitte.ca jmortreux@deloitte.ca fturbide@deloitte.ca</p>
With a copy to the Monitor's Counsel:	<p>McCarthy Tétrault LLP</p> <p>To the attention of: M^{re} Jocelyn Perreault M^{re} Marc-Étienne Boucher</p> <p>Email: jperreault@mccarthy.ca meboucher@mccarthy.ca</p>

If you do not file an appeal application within the delay provided for above, you shall be deemed to have accepted the nature and value of your Allowed Claim as set out in this Notice.

If you agree with the nature and value of your Allowed Claim and do not dispute this Notice, no further action is required.

DATED at Montréal, this ●th day of ●, 2023

Deloitte Restructuring Inc., in its capacity as
Court-appointed Monitor of the Petitioners, and
not in its personal capacity

Per: **Jean-Francois Nadon, CPA, CIRP, LIT**
Title: **President**



Schedule "E" – Proof of Claim and Instruction Letter

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF QUÉBEC
No.: 500-11-061483-224

SUPERIOR COURT
(Commercial Division)

IN THE MATTER OF THE *COMPANIES'*
CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, AS AMENDED:

FORMERXBC INC. (formerly, XEBEC
ADSORPTION INC.)
11941666 CANADA INC. (formerly, XEBEC
RNG HOLDINGS INC.)
1224933 ONTARIO INC. (formerly,
COMPRESSED AIR INTERNATIONAL INC.)
APPLIED COMPRESSION SYSTEMS LTD.
FORMERXBC HOLDING USA INC. (formerly,
XEBEC HOLDING USA INC.)
ENERPHASE INDUSTRIAL SOLUTIONS INC.
CDA SYSTEMS, LLC
FORMERXBC ADSORPTION USA INC.
(formerly, XEBEC ADSORPTION USA INC.)
FORMERXBC PENNSYLVANIA COMPANY
(formerly, THE TITUS COMPANY)
FORMERXBC NOR CORPORATION (formerly,
NORTEKBELAIR CORPORATION)
FORMERXBC FLOW SERVICES – WISCONSIN
INC. (formerly, XBC FLOW SERVICES –
WISCONSIN INC.)
CALIFORNIA COMPRESSION, LLC
FORMERXBC SYSTEMS USA, LLC (formerly
XEBEC SYSTEMS USA, LLC)

Debtors/Petitioners

DELOITTE RESTRUCTURING INC.

Monitor

INSTRUCTION LETTER FOR THE CLAIMS PROCEDURE

On September 29, 2022, the Superior Court of Québec (the “**Canadian Court**”) issued an initial order commencing proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) in respect of FORMERXBC INC. (formerly, Xebec Adsorption Inc.), 11941666 CANADA INC. (formerly, Xebec RNG Holdings Inc.), 1224933 Ontario Inc. (formerly, Compressed Air International Inc.), Applied Compression Systems Ltd., FORMERXBC Holding USA Inc. (formerly, Xebec Holding USA Inc.), Enerphase Industrial Solutions Inc., CDA Systems, LLC, FORMERXBC Adsorption USA Inc. (formerly, Xebec Adsorption USA Inc.), FORMERXBC Pennsylvania Company (formerly, The Titus Company), FORMERXBC NOR Corporation (formerly, Nortekbelair Corporation), FORMERXBC Flow Services – Wisconsin Inc. (formerly, XBC Flow Services – Wisconsin Inc.), California Compression, LLC and FORMERXBC Systems USA, LLC (formerly Xebec Systems USA, LLC) (collectively the “**Petitioners**” or the “**Debtors**”) and appointing Deloitte Restructuring Inc. (the “**Monitor**”) as Monitor of the Debtors.

On September 30, 2022, FormerXBC Inc. (f/k/a Xebec Adsorption Inc.), in its capacity as the authorized foreign representative (the “**Foreign Representative**”) for the Debtors, commenced proceedings (the “**Chapter 15 Cases**”) under chapter 15 of title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the District of Delaware (the “**U.S. Court**”). On October 27, 2022, the U.S. Court entered that certain *Order Granting Recognition of Foreign Main Proceeding and Certain Related Relief*, pursuant to which, the U.S. Court recognized the CCAA Proceedings as a “foreign main proceeding” pursuant to chapter 15 of the Bankruptcy Code, recognized the Foreign Representative as the “foreign representative” in respect of the CCAA Proceedings, and recognized and granted comity to, and gave full force and effect in the United States to the CCAA Proceedings and the orders entered by the Canadian Court in the CCAA Proceedings.

Pursuant to an Order issued on May 24, 2023 (the “**Claims Procedure Order**”), the Canadian Court authorized the Monitor, with the assistance of the Debtors, to conduct a claims process (the “**Claims Process**”) with respect to Claims against the Debtors and their present and or former Directors and Officers. The Claims Procedure Order governs the filing and determination of all Claims against the Debtors. [Sentence to be inserted following the recognition hearing - On June [•], 2023, the U.S. Court entered an order recognizing, enforcing, and approving the Claims Process].

All capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Claims Procedure Order.

The purpose of this Instruction Letter is to provide you with the information required to complete a Proof of Claim in respect of any Claims you may have against any of the Debtors and/or the Directors and Officers. Reference should be made to the Claims Procedure Order for a complete description of the Claims Process. **FOR THE AVOIDANCE OF DOUBT, THE CLAIMS PROCESS APPLIES TO ALL OF THE DEBTORS’ CREDITORS, INCLUDING THOSE LOCATED IN THE UNITED STATES.**

The Claims Procedure Order which can be accessed electronically at <https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx> on the Monitor’s website, as well as other documents relating to the Claims Process.

Please review these documents carefully.

FILING A PROOF OF CLAIM

The Claims Procedure is intended for any Person with any Claims, other than Excluded Claims, of any kind or nature whatsoever against the Debtors, the Directors or Officers or any of them, whether liquidated, unliquidated, contingent or otherwise. Please review the enclosed material for the complete definitions of “**Claim**”, “**Claims Bar Date**”, “**D&O Claim**”, “**Creditor**”, “**Excluded Claim**”, and “**Restructuring Claim**”, to which the Claims Process applies.

Please note that this form of Proof of Claim is to be used if you have a Claim against any of the Debtors and/or the Directors and Officers.

If you wish to assert a Claim against any of the Debtors or against the Directors and Officers, you must complete, sign and submit a Proof of Claim form to the Monitor. The Monitor must receive the Proof of Claim on or before the Claims Bar Date.

When submitting a Proof of Claim, you must specify which of the Debtors you are asserting your Claim against or that you are asserting a Claim against the Directors and Officers. Where a Claim is asserted against multiple parties, separate Proofs of Claim must be filed in respect of each party against which the Claim is asserted.

When submitting a Proof of Claim, you must provide particulars of your Claim and attach supporting documents. The particulars should succinctly explain the factual and legal basis of your Claim and the supporting documents should include all documents that are necessary to establish the nature, validity and quantum of your Claim.

In the event you should file an appeal application in connection with your Claim, the appeal may be decided on the basis of the documents submitted in support of the applicable Proof of Claim.

ANY PERSON HAVING PREVIOUSLY FILED A PROOF OF CLAIM IN THE CHAPTER 15 CASES MUST FILE A PROOF OF CLAIM IN THE CCAA PROCEEDINGS. ANY PROOF OF CLAIM FILED IN THE CHAPTER 15 CASES WILL NOT BE RECOGNIZED IN THE CCAA PROCEEDINGS.

A completed and signed Proof of Claim may be provided to the Monitor by e-mail at xebec_ccaa@deloitte.ca, courier or registered mail to the address set out below.

PROOF OF CLAIMS MUST BE FILED BEFORE THE CLAIMS BAR DATE

Pursuant to the Claims Procedure Order, any Person wishing to assert a Claim against any of the Debtors or against the Directors and Officers must do so through the Claims Process by filing a Proof of Claim with the Monitor on or before the Claims Bar Date, being 5:00 pm (Montreal time) on July 24, 2023 or, in the case of a Restructuring Claim, the later of (i) thirty (30) days after the date on which the Monitor sends a Claims Package (but only in the event that the Creditor receives a Disclaimer Notice after the date of the Order) or (ii) the Claims Bar Date.

FAILURE BY A CREDITOR TO SUBMIT ITS CLAIM TO THE MONITOR ON OR BEFORE THE CLAIMS BAR DATE WILL RESULT IN SUCH CREDITOR'S CLAIM BEING BARRED AND FOREVER EXTINGUISHED AND PRECLUDE SUCH CREDITOR FROM RECEIVING A POTENTIAL DISTRIBUTION.

FURTHER INFORMATION

If you have any questions regarding the Claims Process or any of the enclosed forms, please contact Deloitte Restructuring Inc.:

Deloitte Restructuring Inc.

Att: Xebec - Claims Process
1190 avenue des Canadiens-de-Montréal
Suite 500, Montréal, QC, H3B 0M7, Canada

Email: xebec_ccaa@deloitte.ca
Tel: 514-393-6722 Toll Free: 1-888-393-6722

Copies of this Instruction Letter, the Claims Procedure Order, the form Proof of Claim and various other relevant documents can be found on the Monitor's website at <https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx> or obtained by contacting the Monitor at the coordinates indicated above and providing particulars as to your name, address, facsimile number and e-mail address.

Schedule E (Cont'd) - Proof of Claim



<input type="checkbox"/>	U	_____
<input type="checkbox"/>	P	_____
<input type="checkbox"/>	S	_____

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF QUÉBEC
No.: 500-11-061483-224

SUPERIOR COURT
(Commercial Division)

**IN THE MATTER OF THE *COMPANIES'*
CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, AS AMENDED:**

FORMERXBC INC. (formerly, XEBEC
ADSORPTION INC.)
11941666 CANADA INC. (formerly, XEBEC
RNG HOLDINGS INC.)
1224933 ONTARIO INC. (formerly,
COMPRESSED AIR INTERNATIONAL INC.)
APPLIED COMPRESSION SYSTEMS LTD.
FORMERXBC HOLDING USA INC.
(formerly, XEBEC HOLDING USA INC.)
ENERPHASE INDUSTRIAL SOLUTIONS
INC.
CDA SYSTEMS, LLC
FORMERXBC ADSORPTION USA INC.
(formerly, XEBEC ADSORPTION USA INC.)
FORMERXBC PENNSYLVANIA COMPANY
(formerly, THE TITUS COMPANY)
FORMERXBC NOR CORPORATION
(formerly, NORTEKBELAIR
CORPORATION)
FORMERXBC FLOW SERVICES –
WISCONSIN INC. (formerly, XBC FLOW
SERVICES – WISCONSIN INC.)
CALIFORNIA COMPRESSION, LLC
- and -
FORMERXBC SYSTEMS USA, LLC
(formerly XEBEC SYSTEMS USA, LLC)

Debtors/Petitioners

DELOITTE RESTRUCTURING INC.

Monitor

PROOF OF CLAIM

Pursuant to an Order of the Superior Court of Québec issued on May 24, 2023 (the **Claims Procedure Order**), a process was approved for the purpose of identifying, reviewing and determining claims against the Debtors as well as against their Directors and Officers. All capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Claims Procedure Order.

Please read the Instruction Letter carefully prior to completing this Proof of Claim.

A. PARTICULARS OF CREDITOR

1) Full legal name of creditor¹: _____
(the “**Creditor**”)

2) Full mailing address of the Creditor:

3) Telephone number of Creditor: _____

4) Facsimile number of Creditor: _____

5) E-mail address of Creditor: _____

6) Attention (contact person): _____

7) Has the Claim been sold or assigned to the Creditor to another party? Yes____ No____

8) If yes, please indicate in a separate document the full legal name of any assignor, their full address, email, telephone number as well as the amount of the Claim assigned and the date of assignment

¹ Full legal or corporate name should be the name of the original Creditor, not the Assignee. Do not file separate Proofs of Claim by division of the same Creditor.

B. PARTICULARS OF THE XEBEC GROUP PARTY

Identify the party against which the Claim is asserted (please **SELECT ONLY ONE PER CLAIM**) (A separate Proof of Claim must be filed for each Xebec Group Party against which any Claim is asserted):

Creditor of (x):

- ☐ **FORMERXBC INC. (formerly, XEBEC ADSORPTION INC.)**
- ☐ **11941666 CANADA INC. (formerly, XEBEC RNG HOLDINGS INC.)**
- ☐ **1224933 ONTARIO INC. (formerly, COMPRESSED AIR INTERNATIONAL INC.)**
- ☐ **APPLIED COMPRESSION SYSTEMS LTD.**
- ☐ **FORMERXBC HOLDING USA INC. (formerly, XEBEC HOLDING USA INC.)**
- ☐ **ENERPHASE INDUSTRIAL SOLUTIONS INC.**
- ☐ **CDA SYSTEMS, LLC**
- ☐ **FORMERXBC ADSORPTION USA INC. (formerly, XEBEC ADSORPTION USA INC.)**
- ☐ **FORMERXBC PENNSYLVANIA COMPANY (formerly, THE TITUS COMPANY)**
- ☐ **FORMERXBC NOR CORPORATION (formerly, NORTEKBELAIR CORPORATION)**
- ☐ **FORMERXBC FLOW SERVICES – WISCONSIN INC. (formerly, XBC FLOW SERVICES – WISCONSIN INC.)**
- ☐ **CALIFORNIA COMPRESSION, LLC**
- ☐ **FORMERXBC SYSTEMS USA, LLC (formerly XEBEC SYSTEMS USA, LLC)**

(the entity with an **X** above is hereinafter referred to as the “**Xebec Group Party**”)

C. PROOF OF CLAIM

I, _____ (Name of Creditor or representative of the Creditor), of _____ (City, Province/State, Country) do hereby certify:

1) That, I (please check one):

____ am the Creditor of the Xebec Group Party; or

____ hold the position of _____ (state position or title) of the Creditor of the Xebec Group Party.

2) The Xebec Group Party was and is indebted to the Creditor as follows²:

i) Claim as at the Determination Date:

Amount of Claim	Currency

Amount unsecured	Amount secured

ii) Restructuring Claim:

Amount of Claim	Currency

Amount unsecured	Amount secured

D. D&O Claim

A Claim which may be brought against Directors and Officers of the Debtors as defined pursuant to paragraph 11.03(1) of the CCAA and the right of a Person against one or more of the Directors and Officers in respect of any debt or obligation of the Directors and Officers.

Amount of Claim	Currency

Description

² Include all Claims that you are asserting against the Xebec Group Party and the applicable currency.

E. PARTICULARS OF A CLAIM AND SUPPORTING DOCUMENTS

Please provide in a separate document all particulars of the Claim including the amount and description of any transactions or agreements giving rise to the Claim as well as a description of the security, if any, granted to the Creditor in respect of the Claim and the estimated value of such security. Please also provide particulars of all credits, discounts, counterclaims or payments to which the Debtor is entitled. If the Claim is contingent or unliquidated, state the basis and provide evidence upon which the claim has been valued.

Please attach all documentation necessary to support the quantum, nature and validity of your Claim, such as invoices, statements of account, affidavits³, agreements, transaction or other documents. In the event you must eventually file an appeal application in connection with your Claim, the appeal may be decided on the basis of the documents submitted in support of the Proof of Claim.

F. FILING OF PROOF OF CLAIM

The duly completed Proof of Claim together with supporting documentation must be returned and received by the Monitor, no later than **5:00 p.m. (Montreal Time) on July 24, 2023** by e-mail or registered mail to the address set out below:

FAILURE TO FILE YOUR PROOF OF CLAIM BY SUCH DATE WILL RESULT IN YOUR CLAIM BEING FOREVER EXTINGUISHED AND BARRED.

Mailing Address:

Deloitte Restructuring Inc., Court-appointed Monitor of the Petitioners
1190 avenue des Canadiens-de-Montréal
Suite 500, Montreal, QC, H3B 0M7, Canada

Attention: Xebec – Claims Process

E-mail: xebec_ccaa@deloitte.ca

G. CERTIFICATION

I hereby certify that:

- I am the Creditor or an authorized representative of the Creditor;
- I have knowledge of all the circumstances connected the Claim asserted pursuant to this Proof of Claim;
- The Creditor asserts this Claim against the Xebec Group Party; and
- Complete documentation in support of this Claim is attached.

DATED at _____ this _____ day of _____, 2023.

(Signature of Witness)

(Signature of individual completing this form)

(Please print name)

(Please print name)

An electronic version of this form is available at
<https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx>.

³ If you include an affidavit or solemn declaration, it must have been made before a person qualified to take affidavits or solemn declarations.

EXHIBIT P-3

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-061483-224

DATE: May 24, 2023

BEFORE THE HONOURABLE CHRISTIAN IMMER, J.S.C.

IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF:

**FORMERXBC INC. (FORMERLY XEBEC ADSORPTION INC.)
11941666 CANADA INC. (FORMERLY XEBEC RNG HOLDINGS INC.)
APPLIED COMPRESSION SYSTEMS LTD.
1224933 ONTARIO INC. (FORMERLY COMPRESSED AIR INTERNATIONAL INC.)
FORMERXBC HOLDING USA INC. (FORMERLY XEBEC HOLDING USA INC.)
ENERPHASE INDUSTRIAL SOLUTIONS, INC.
CDA SYSTEMS, LLC
FORMERXBC ADSORPTION USA INC. (FORMERLY XEBEC ADSORPTION USA INC.)
FORMERXBC PENNSYLVANIA COMPANY (FORMERLY THE TITUS COMPANY)
FORMERXBC NOR CORPORATION (FORMERLY NORTEKBELAIR CORPORATION)
FORMERXBC FLOW SERVICES – WISCONSIN INC. (FORMERLY XBC FLOW
SERVICES – WISCONSIN INC.)
CALIFORNIA COMPRESSION, LLC
FORMERXBC SYSTEMS USA, LLC (FORMERLY XEBEC SYSTEMS USA, LLC)**
Debtors / Petitioners

and

DELOITTE RESTRUCTURING INC.
Monitor

Draft

500-11-057985-208

**ORDER AUTHORIZING THE USE OF NET PROCEEDS
TO FUND CASH-FLOW REQUIREMENTS**

- [1] **CONSIDERING** the *Application for (i) an Extension of the Stay of Proceedings, (ii) the Establishment of a Claims Process and (iii) the Authorization to Use Net Proceeds to Fund Cash-Flow Requirements* (the “**Application**”) pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended (“**CCAA**”) and the exhibits and the affidavit of Mr. Dimitrios Vounassis, filed in support thereof;
- [2] **CONSIDERING** the Tenth Report of the Monitor dated May ●, 2023;
- [3] **CONSIDERING** the submissions of counsel;
- [4] **CONSIDERING** the provisions of the CCAA;
- [5] **GIVEN** the Fifth Amended and Restated Initial Order rendered by the Court on March 27, 2023 (the “**Fifth ARIO**”);
- [6] **CONSIDERING** that, following the issuance of various approval and vesting orders (the “**AVOs**”), the Monitor issued seven (7) certificates on February 7, 15, 21 and 27, 2023, March 21 and 24, 2023 and April 5, 2023, which were filed in the Court record, and which confirmed the closing of the transactions relating thereto;
- [7] **GIVEN** that, in accordance with the AVOs, the Net Proceeds were transferred to the Monitor and are currently held in trust by the Monitor;
- [8] **GIVEN** that it is appropriate and justified to fund cash flow requirements of the Petitioners from the Net Proceeds, the whole in accordance with the mechanism set forth hereinafter;

THE COURT HEREBY:

- [9] **GRANTS** the Application.
- [10] **DECLARES** that, unless otherwise defined, all capitalized terms in this Order shall have the meaning ascribed thereto in the Application.
- [11] **DECLARES** that the Monitor is authorized to disburse to the Petitioners from the Net Proceeds amounts required to comply with the cash-flow requirements of the Petitioners up to a maximum amount of \$3,000,000.

Draft

500-11-057985-208

- [12] **DECLARES** that the Petitioners are authorized to fund, from the Net Proceeds received from the Monitor in compliance with this Order, cash-flow requirements as and when they become due, without further order by this Court, up to and until September 29, 2023.
- [13] **DECLARES** that this Order shall have full force and effect in all provinces and territories of Canada.
- [14] **DECLARES** that the Petitioners may, from time to time, apply to this Court for directions concerning the exercise of their powers, duties and rights hereunder or in respect of the proper execution of this Order.
- [15] **REQUESTS** the aid and recognition of any Court, tribunal, regulatory or administrative body in any Province of Canada and any Canadian federal court or in the United States of America, including without limitation the United States Bankruptcy Court for the District of Delaware, and any court or administrative body elsewhere, to give effect to this Order and to assist the Petitioners, the Monitor and their respective agents in carrying out the terms of this Order.
- [16] **ORDERS** that any prior delay for the presentation of the Application is hereby abridged and validated so that the Application is properly returnable and dispenses with further service thereof.
- [17] **PERMITS** service of this Order at any time and place and by any means whatsoever.
- [18] **ORDERS** the provisional execution of this Order notwithstanding any appeal and without security.
- [19] **THE WHOLE WITHOUT COSTS.**

Christian Immer, J.S.C.

MTRE SANDRA ABITAN
 MTRE JULIEN MORISSETTE
 MTRE ILIA KRAVTSOV
 MTRE SOPHIE COURVILLE
 (OSLER HOSKIN & HARCOURT LLP)
 COUNSEL TO THE PETITIONERS

Hearing date: May 24, 2022

Draft

EXHIBIT P-4

**SUPERIOR COURT
(Commercial Division)**

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-061483-224

DATE: May 24, 2023

BEFORE THE HONOURABLE CHRISTIAN IMMER, J.S.C.

IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF:

**FORMERXBC INC. (FORMERLY XEBEC ADSORPTION INC.)
11941666 CANADA INC. (FORMERLY XEBEC RNG HOLDINGS INC.)
APPLIED COMPRESSION SYSTEMS LTD.
1224933 ONTARIO INC. (FORMERLY COMPRESSED AIR INTERNATIONAL INC.)
FORMERXBC HOLDING USA INC. (FORMERLY XEBEC HOLDING USA INC.)
ENERPHASE INDUSTRIAL SOLUTIONS, INC.
CDA SYSTEMS, LLC
FORMERXBC ADSORPTION USA INC. (FORMERLY XEBEC ADSORPTION USA INC.)
FORMERXBC PENNSYLVANIA COMPANY (FORMERLY THE TITUS COMPANY)
FORMERXBC NOR CORPORATION (FORMERLY NORTEKBELAIR CORPORATION)
FORMERXBC FLOW SERVICES – WISCONSIN INC. (FORMERLY XBC FLOW
SERVICES – WISCONSIN INC.)
CALIFORNIA COMPRESSION, LLC
FORMERXBC SYSTEMS USA, LLC (FORMERLY XEBEC SYSTEMS USA, LLC)
Debtors / Petitioners**

and
DELOITTE RESTRUCTURING INC.
Monitor

and

IVYS ADSORPTION INC.
Impleaded Party (Buyer)

**APPROVAL AND VESTING ORDER IN RESPECT OF BIOSTREAM ASSETS OF
FORMERXBC SYSTEMS USA, LLC (FORMERLY XEBEC SYSTEMS USA, LLC)**

- [1] **CONSIDERING** the *Application for (i) an Extension of the Stay of Proceedings, (ii) the Establishment of a Claims Process, (iii) the Authorization to Use Net Proceeds to Fund Cash-Flow Requirements and (iv) the Issuance of an Approval and Vesting Order in Respect of BioStream Assets of FormerXBC Systems USA, LLC (Formerly Xebec Systems USA, LLC) (the “Application”)* pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended (“**CCAA**”) and the exhibits and the affidavit of Mr. Dimitrios Vounassis, filed in support thereof;
- [2] **CONSIDERING** the Tenth Report of the Monitor dated May ●, 2023;
- [3] **CONSIDERING** the submissions of counsel;
- [4] **CONSIDERING** the provisions of the CCAA;
- [5] **GIVEN** the Fifth Amended and Restated Initial Order rendered by the Court on March 27, 2023 (the “**Fifth ARIO**”);
- [6] **CONSIDERING** that it is appropriate to issue an order approving the sale transaction (the “**Transaction**”) contemplated by the agreement entitled Binding Letter of Intent For Purchase of Biostream WIP / Inventory dated May 19, 2023 (the “**Binding LOI**”) between **FormerXBC Systems USA, LLC** (the “**Seller**”), and **Ivys Adsorption Inc.**, as buyer, (the “**Buyer**”), a copy of which was filed under seal as **Exhibit P-5** to the Application, and vesting in the Buyer certain work in progress and inventory (the “**Purchased Assets**”).

THE COURT HEREBY:

- [7] **GRANTS** the Application.

DEFINITIONS

- [8] **DECLARES** that, unless otherwise defined, all capitalized terms in this Order shall have the meaning ascribed thereto in the Application.

SERVICE

- [9] **ORDERS** that any prior delay for the presentation of the Application is hereby abridged and validated so that the Application is properly returnable today and dispenses with further service thereof.
- [10] **PERMITS** service of this Order at any time and place and by any means whatsoever.

TRANSACTION APPROVAL

- [11] **ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Binding LOI by the Seller is hereby authorized and approved *nunc pro tunc*, with such minor alterations, changes, amendments, deletions or additions thereto as may be agreed to by the Seller and the Buyer, with the consent of the Monitor.

EXECUTION OF DOCUMENTATION

- [12] **AUTHORIZES** the Seller and the Buyer to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in the Binding LOI and any other ancillary document which could be required or useful to give full and complete effect thereto, including entering into an asset purchase agreement.

AUTHORIZATION

- [13] **ORDERS and DECLARES** that this Order shall constitute the only authorization required by the Petitioners to proceed with the Transaction and that no shareholder or regulatory approval, if applicable, shall be required in connection therewith.

VESTING OF PURCHASED ASSETS

- [14] **ORDERS AND DECLARES** that upon the issuance of a Monitor's certificate substantially in the form appended as **Schedule "A"** hereto (the "**Monitor's Certificate**"), all rights, title and interest in and to the Purchased Assets shall vest absolutely and exclusively in and with the Buyer, free and clear of and from any

and all claims, liabilities (direct, indirect, absolute or contingent), obligations, interests, prior claims, security interests (whether contractual, statutory or otherwise), liens, charges, hypothecs, mortgages, pledges, deemed trusts, assignments, judgments, executions, writs of seizure or execution, notices of sale, options, adverse claims, levies, rights of first refusal or other pre-emptive rights in favour of third parties, restrictions on transfer of title, taxes or other claims or encumbrances, whether or not they have attached or been perfected, registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**"), including, without limiting the generality of the foregoing, all encumbrances created by order of this Court, all charges or security evidenced by registration, publication or filing pursuant to any applicable legislation providing for a security interest in personal or movable property (all of which are collectively referred to as the "**Encumbrances**"), excluding for greater certainty the Biostream Charge (as defined below).

- [15] For greater certainty, **ORDERS** that all of the Encumbrances, affecting or relating to the Purchased Assets be cancelled and discharged as against the Purchased Assets, in each case effective as of the issuance of the Monitor's Certificate.
- [16] **ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
- [17] **ORDERS** that the Monitor may rely on written notice from the Seller and the Buyer regarding the fulfillment of conditions to closing under the Binding LOI and shall have no liability with respect to the delivery of the Monitor's Certificate.
- [18] **ORDERS** the Monitor to file with the Court a copy of the Monitor's Certificate, as soon as practicable after issuance thereof.
- [19] **ORDERS AND DIRECTS** the Monitor to serve on the service list in the within CCAA proceedings, post on the Monitor's website and file with the Court a copy of the Monitor's Certificate, as soon as practicable after the issuance thereof.

CANCELLATION OF SECURITY REGISTRATIONS

- [20] **ORDERS** that upon the issuance of the Monitor's Certificate, the Petitioners shall be authorized to take all such steps as may be necessary to effect the discharge of all Encumbrances registered against the Purchased Assets from any registration

filed against the Petitioners, provided that the Petitioners shall not be authorized to effect any discharge that would have the effect of releasing any collateral other than the Purchased Assets, and the Petitioners shall be authorized to take any further steps by way of further application to this Court.

BIOSTREAM CHARGE

- [21] **DECLARES** that the Seller, as security for the payments to be made by the Buyer pursuant to the Biostream Transaction, be entitled to the benefit of and is hereby granted a charge and security in the five biostream units of the Purchase Assets, to the extent of the aggregate amount of \$2,000,000 (the “**Biostream Charge**”).
- [22] **DECLARES** that following the initial payment by the Buyer equivalent to 25% of the Purchase Price, such charge will be discharged on a unit-by-unit basis following the payment of each instalment payment received by the Monitor from the Buyer, as confirmed by the issuance of Monitor’s certificates confirming receipt of the instalments and reductions of the Biostream Charge, except for the Biostream Charge on the last biostream unit which will only be discharged upon receipt by the Monitor of the balance of payment of the Purchase Price and as confirmed by the issuance of a Monitor’s certificate confirming that the Purchase Price has been paid in full and cancelling and discharging the Biostream Charge.
- [23] **DECLARES** that the Biostream Charge shall rank in priority to any and all other hypothecs, mortgages, liens, security interests, priorities, charges, options, encumbrances or security of whatever nature or kind (collectively, the “**Encumbrances**”) affecting the Purchase Assets.

PROTECTION OF PERSONAL INFORMATION

- [24] **ORDERS** that, pursuant to sub-section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5 or any similar provision of any applicable provincial legislation (collectively, the “**Applicable Privacy Laws**”), the Petitioners and the Monitor are authorized to disclose and transfer to the Buyer the personal information in the custody or control of the Petitioners set out in the Binding LOI (the “**Disclosed Information**”). The Buyer shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Petitioners.
- [25] **ORDERS** that the Buyer shall:
- (a) maintain and protect the Disclosed Information with security safeguards appropriate to the Disclosed information and as may otherwise be required by Applicable Privacy Laws;

- (b) use and disclose the Disclosed Information for the purposes for which the Disclosed Information was collected by the Petitioners and as may otherwise be permitted by Applicable Privacy Laws; and
- (c) give effect to any withdrawals of consent of the individuals to whom the Disclosed Information relates.

VALIDITY OF THE TRANSACTION

[26] **ORDERS** that notwithstanding:

- (a) the pendency of these proceedings;
- (b) any petition for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act.*, RSC 1985, c B-3 BIA and any order issued pursuant to any such petition; or
- (c) the provisions of any federal or provincial legislation;

the vesting of Purchased Assets contemplated in this Order, as well as the execution of the Binding LOI and the assignment of the Assumed Contracts authorized by this Order, and the payments, distributions and disbursements made pursuant to or in connection with this Order are to be binding on any trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Petitioners, the Buyer, or the Monitor, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

THE MONITOR

- [27] **DECLARES** that the Monitor shall incur no liability as a result of acting in accordance with this Order, other than any liability arising out of or in connection with the gross negligence or wilful misconduct of the Monitor.
- [28] **DECLARES** that no action lies against the Monitor by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Monitor or belonging to the same group as the Monitor shall benefit from the protection arising under the present paragraph.
- [29] **DECLARES** that nothing contained herein shall require the Monitor to occupy or to take control, or to otherwise manage all or any part of the assets of the Petitioners. The Monitor shall not, as a result of this Order, be deemed to be in

possession of any assets of the Petitioners within the meaning of environmental legislation, the whole pursuant to the terms of the CCAA.

- [30] **ORDERS AND DECLARES** that no provision of this Order is intended to appoint the Monitor as an officer, director or employee of any of the Petitioners, de facto or otherwise, or to create a fiduciary duty to any party, including any creditor or shareholder of the Petitioners. Additionally, nothing in this Order shall constitute or be deemed to constitute the Monitor as a receiver, assignee, liquidator, or receiver and manager of any of the Petitioners and any distribution made to the creditors of the Petitioners will be deemed to have been made by the Petitioners.

SEALING

- [31] **ORDERS** that the Binding LOI, Exhibit P-5 shall be filed under seal and kept confidential until further order of this Court.

GENERAL

- [32] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.
- [33] **DECLARES** that the Petitioners or the Monitor may, from time to time, apply to this Court for directions concerning the exercise of their respective powers, duties and rights hereunder or in respect of the proper execution of this Order on notice only to each other and the Buyer.
- [34] **DECLARES** that the Petitioners and the Monitor shall be entitled to seek leave to vary this Order upon such terms and such notice as this Court deems just.
- [35] **REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body in any Province of Canada and any Canadian federal court or in the United States of America, including without limitation the United States Bankruptcy Court for the District of Delaware, and any court or administrative body elsewhere, to give effect to this Order, and to assist the Petitioners, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioners and the Monitor as may be necessary or desirable to give effect to this Order in any foreign proceeding, to assist the Petitioners, the Monitor and their respective agents in carrying out this Order.
- [36] **ORDERS** provisional execution of this Order notwithstanding any appeal and without security.

[37] **THE WHOLE** without costs.

Christian Immer, JCS

MTRE. SANDRA ABITAN
MTRE. JULIEN MORISSETTE
MTRE. ILIA KRAVTSOV
MTRE. SOPHIE COURVILLE
(OSLER HOSKIN & HARCOURT LLP)
Attorneys for the Petitioners

Hearing date: **May 24, 2023**

SCHEDULE A
CERTIFICATE OF THE MONITOR

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Commercial Division)

(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, RSC
1985, c. C-36)

No.: 500-11-061483-224

**IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF:**

**FORMERXBC INC. (FORMERLY XEBEC
ADSORPTION INC.)
11941666 CANADA INC. (FORMERLY XEBEC
RNG HOLDINGS INC.)
APPLIED COMPRESSION SYSTEMS LTD.
1224933 ONTARIO INC. (FORMERLY
COMPRESSED AIR INTERNATIONAL INC.)
FORMERXBC HOLDING USA INC. (FORMERLY
XEBEC HOLDING USA INC.)
ENERPHASE INDUSTRIAL SOLUTIONS, INC.
CDA SYSTEMS, LLC
FORMERXBC ADSORPTION USA INC.
(FORMERLY XEBEC ADSORPTION USA INC.)
FORMERXBC PENNSYLVANIA COMPANY
(FORMERLY THE TITUS COMPANY)
FORMERXBC NOR CORPORATION
(FORMERLY NORTEKBELAIR CORPORATION)
FORMERXBC FLOW SERVICES - WISCONSIN
INC. (FORMERLY XBC FLOW SERVICES -
WISCONSIN INC.)
CALIFORNIA COMPRESSION, LLC
FORMERXBC SYSTEMS USA, LLC (FORMERLY
XEBEC SYSTEMS USA, LLC)**

Debtors/Petitioners

-and-

DELOITTE RESTRUCTURING INC.

Monitor

CERTIFICATE OF THE MONITOR

**(CLOSING OF THE BIOSTREAM TRANSACTION AND CREATION OF THE
BIOSTREAM CHARGE)**

RECITALS:

WHEREAS on September 29, 2022, the Debtors/Petitioners Xebec Adsorption Inc. et al. filed an Application pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended ("**CCAA**") and Deloitte Restructuring Inc. was appointed as monitor thereto (the "**Monitor**").

WHEREAS on May 24, 2023, the Court issued the *Approval, Vesting and Assignment Order in Respect of Assets of FormerXBC Systems USA, LLC* (the "**Approval and Vesting Order**") authorizing and approving, *inter alia*, the execution of the Binding LOI and the conclusion of a definitive asset purchase agreement reflecting the terms of the Binding LOI (the "**Purchase Agreement**"), between FormerXBC Systems USA, LLC, as seller, (the "**Seller**"), and Ivys Adsorption Inc. as buyer, (the "**Buyer**") and all the transactions contemplated therein (the "**Transaction**"), with such non-material alterations, changes, amendments, deletions or additions thereto, as may be agreed with the consent of the Monitor.

WHEREAS the Approval and Vesting Order contemplates the issuance of this Certificate of the Monitor once (a) the Purchase Agreement has been executed and delivered, (b) the Initial Payment (as provided by the Binding LOI and defined in the Purchase Agreement) has been paid, and (c) all the conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

WHEREAS, following confirmation of the above, it also contemplated that the Monitor will issue this Certificate creating and effecting the Biostream Charge (as defined in the Approval and Vesting Order).

THE MONITOR CERTIFIES THAT IT HAS BEEN ADVISED BY THE SELLER AND THE BUYER AS TO THE FOLLOWING:

- (a) the Purchase Agreement has been executed and delivered;
- (b) the Initial Payment payable upon the closing of the Transaction has been paid and received by the Monitor;
- (c) all conditions to the closing of the Transaction have been satisfied or waived by the parties thereto, such that closing has occurred; and
- (d) The Biostream Charge is accordingly created and effected, in accordance with para. 21 of the Approval and Vesting Order.

This Certificate was issued by the Monitor on ●, 2023.

Deloitte Restructuring Inc., in its capacity as Monitor
and not in its personal capacity.

Name: Jean-François Nadon, CPA, CIRP, LIT

Title: President

EXHIBIT P-4A

May 2014

SUPERIOR COURT

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-061483-224

DATE: May 24, 2023

BEFORE THE HONOURABLE CHRISTIAN IMMER, J.S.C.

IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF:

FORMERXBC INC. (FORMERLY XEBEC ADSORPTION INC.)
11941666 CANADA INC. (FORMERLY XEBEC RNG HOLDINGS INC.)
APPLIED COMPRESSION SYSTEMS LTD.
1224933 ONTARIO INC. (FORMERLY COMPRESSED AIR INTERNATIONAL INC.)
FORMERXBC HOLDING USA INC. (FORMERLY XEBEC HOLDING USA INC.)
ENERPHASE INDUSTRIAL SOLUTIONS, INC.
CDA SYSTEMS, LLC
FORMERXBC ADSORPTION USA INC. (FORMERLY XEBEC ADSORPTION USA INC.)
FORMERXBC PENNSYLVANIA COMPANY (FORMERLY THE TITUS COMPANY)
FORMERXBC NOR CORPORATION (FORMERLY NORTEKBELAIR CORPORATION)
FORMERXBC FLOW SERVICES – WISCONSIN INC. (FORMERLY XBC FLOW
SERVICES – WISCONSIN INC.)
CALIFORNIA COMPRESSION, LLC
FORMERXBC SYSTEMS USA, LLC (FORMERLY XEBEC SYSTEMS USA, LLC)
Debtors / Petitioners

and
DELOITTE RESTRUCTURING INC.
Monitor

and
IVYS ADSORPTION INC.
Impleaded Party (Buyer)

APPROVAL AND VESTING ORDER IN RESPECT OF BIOSTREAM ASSETS OF
FORMERXBC SYSTEMS USA, LLC (FORMERLY XEBEC SYSTEMS USA, LLC)

~~(Commercial Division)~~

~~CANADA~~
~~PROVINCE OF QUÉBEC~~
~~DISTRICT OF MONTRÉAL~~
~~No. 500-11-~~
~~DATE: •~~

~~PRESIDING : THE HONOURABLE, J.S.C.~~

~~IN THE MATTER OF •:~~

~~•~~
~~Debtor~~

~~-and-~~
~~•~~
~~THE LAND REGISTRAR FOR THE LAND REGISTRY~~
~~OFFICE FOR THE REGISTRATION DIVISION OF • (Québec)/~~
~~THE LAND REGISTRAR FOR THE LAND REGISTRY OFFICE~~
~~OF • (Rest of Canada) / THE REGISTRAR OF THE REGISTER OF PERSONAL AND~~
~~MOVABLE REAL RIGHTS (Québec)~~

~~— Mis-en-Cause~~

~~-and-~~

•

_____~~[Petitioner]~~¹

~~-and-~~

•

_____~~[Receiver/Trustee/Monitor]~~

~~APPROVAL AND VESTING ORDER~~^{2 3}

[1] ~~ON READING~~**CONSIDERING** the ~~[Debtor/Petitioner/Receiver/Trustee/Monitor]'s~~
~~Motion for~~Application for (i) an Extension of the Stay of Proceedings, (ii) the
Establishment of a Claims Process, (iii) the Authorization to Use Net Proceeds to
Fund Cash-Flow Requirements and (iv) the Issuance of an Approval and Vesting
Order (the "Motion"), the affidavit in Respect of BioStream Assets of FormerXBC
Systems USA, LLC (Formerly Xebec Systems USA, LLC) (the "Application")
pursuant to the Companies' Creditors Arrangement Act, RSC 1985, c C-36, as
amended ("CCAA") and the exhibits and the affidavit of Mr. Dimitrios Vounassis,
filed in support thereof,~~as well as;~~

[2] **CONSIDERING** the Tenth Report of the ~~[Receiver/Trustee/Monitor]~~ dated ~~•~~May
•, 2023;

[3] **CONSIDERING** the submissions of counsel;

¹____ Under section 243(1) of the BIA, the sale of assets of an insolvent debtor by the receiver may be ordered at the request of the secured creditor. In such a case, the secured creditor would be the petitioner.

²____ A blacklined version must to be included with the Motion

³____ This Model Authorization and Vesting Order (the "~~Model Order~~") is an order authorizing an insolvent debtor under Court protection (whether under the ~~Bankruptcy and Insolvency Act ("BIA")~~ or the ~~Companies' Creditors Arrangement Act ("CCAA")~~) or a receiver appointed under s. 243 of the BIA to enter into a transaction for the sale of its assets and vesting the purchased assets in the purchaser, free and clear of any liens, charges, hypothecs or other encumbrances.

[4] CONSIDERING the provisions of the CCAA;

[5] GIVEN the Fifth Amended and Restated Initial Order rendered by the Court on March 27, 2023 (the "~~Report~~" Fifth ARIO);

~~[2] SEEING~~ the service of the Motion⁴;

~~[3] SEEING~~ the submissions of ~~[Debtor/Receiver/Trustee/Monitor]'s attorneys and the submissions of~~;

[6] ~~[4] SEEING~~ CONSIDERING that it is appropriate to issue an order approving the sale transaction~~(s)~~ (the "Transaction") contemplated by the agreement entitled ~~the " Binding Letter of Intent For Purchase Agreement"~~ of Biostream WIP / Inventory dated May 19, 2023 (the "Binding LOI") ~~by and between [Debtor/Receiver/Trustee/Monitor] (the "Vendor"), as vendor, and FormerXBC Systems USA, LLC (the "Seller"), and Ivys Adsorption Inc., as buyer, (the "Purchaser" "Buyer"), as purchaser,~~ a copy of which was filed under seal as Exhibit RP-5 to the Motion Application, and vesting in the Purchaser the assets described in the Purchase Agreement Buyer certain work in progress and inventory (the "Purchased Assets")⁵.

~~WHEREFORE~~ THE COURT HEREBY:

[7] ~~[5]~~ GRANTS the ~~Motion;~~ Application.

DEFINITIONS

[8] DECLARES that, unless otherwise defined, all capitalized terms in this Order shall have the meaning ascribed thereto in the Application.

⁴ ~~The Motion should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should be prepared to provide proof of service to the Court. The practice in Quebec is to implead (as mis-en-cause) and serve the proceedings requesting the issuance of an authorization and vesting orders on the land registry named in the orders sought and on the Register of personal and movable real rights, as the case may be. The practice of impleading the registries concerned does not appear to be followed in Canadian provinces outside of Quebec, however, such that preliminary inquiries with the registries concerned are recommended before serving any proceedings on land or other registries outside of Quebec.~~

⁵ ~~To allow this Order to be free-standing (and not require reference to the Court record and/or the Purchase Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

SERVICE

[9] ~~[6]~~ **ORDERS** that any prior delay for the presentation of ~~this Motion~~ the Application is hereby abridged and validated so that ~~this Motion~~ the Application is properly returnable today and ~~hereby~~ dispenses with further service thereof.

[10] ~~[7]~~ **PERMITS** service of this Order at any time and place and by any means whatsoever.

SALE TRANSACTION APPROVAL

[11] ~~[8]~~ **ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the ~~Purchase Agreement~~ Binding LOI by the ~~Vendor~~ Seller is hereby authorized and approved *nunc pro tunc*, with such ~~non-material~~ minor alterations, changes, amendments, deletions or additions thereto as may be agreed to ~~but~~ only by the Seller and the Buyer, with the consent of the ~~[Receiver/Trustee/Monitor]~~.

EXECUTION OF DOCUMENTATION

[12] ~~[9]~~ **AUTHORIZES** the ~~[Vendor/Receiver/Trustee/Monitor]~~ Seller and the ~~Purchaser~~ Buyer to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in the ~~Purchase Agreement (Exhibit R-●)~~ Binding LOI and any other ancillary document which could be required or useful to give full and complete effect thereto, including entering into an asset purchase agreement.

AUTHORIZATION

[13] ~~[10]~~ **ORDERS** and **DECLARES** that this Order shall constitute the only authorization required by the ~~Vendor~~ Petitioners to proceed with the Transaction and that no shareholder or regulatory approval, if applicable, shall be required in connection therewith.

VESTING OF PURCHASED ASSETS (choose A or B whether Purchased Assets are only located in Quebec (A) or also outside of Quebec (B))

[14] ~~[11]~~ **A** ~~and~~ **AND DECLARES** that upon the issuance of a ~~[Receiver/Trustee/Monitor]~~'s certificate substantially in the form appended as **Schedule "A"** hereto (the **"Monitor's Certificate"**), all rights, title and interest in and to the Purchased Assets shall vest absolutely and exclusively in and with the ~~Purchaser~~ Buyer, free and clear of and from any and all claims, liabilities (direct, indirect, absolute or contingent), obligations, interests, prior claims, ~~right~~

~~of retention, charges, hypothecs, deemed trusts, judgments, writs of seizure or execution, notices of sale, contractual rights relating to the Property, encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise (collectively, the "Encumbrances"~~⁶~~), including without limiting the generality of the foregoing all Encumbrances created by order of this Court and all charges, or security evidenced by registration, publication or filing pursuant to the Civil Code of Québec in movable / immovable property, excluding however, the permitted encumbrances and restrictive covenants listed on Schedule "B" hereto (the "Permitted Encumbrances") and, for greater certainty, ORDERS that all of the Encumbrances affecting or relating to the Purchased Assets, other than the Permitted Encumbrances, be cancelled and discharged as against the Purchased Assets, in each case effective as of the applicable time and date of the Certificate.~~

[11] ~~B~~ ~~ORDERS~~ and ~~DECLARES~~ that upon the issuance of a ~~[Receiver/Trustee/Monitor]'s~~ certificate substantially in the form appended as Schedule "A" hereto (the "~~Certificate~~"), all rights, title and interest in and to the Purchased Assets shall vest absolutely and exclusively in and with the Purchaser, free and clear of and from any and all claims, liabilities (direct, indirect, absolute or contingent), obligations, interests, prior claims, security interests (whether contractual, statutory or otherwise), liens, charges, hypothecs, mortgages, pledges, deemed trusts, assignments, judgments, executions, writs of seizure or execution, notices of sale, options, adverse claims, levies, rights of first refusal or other pre-emptive rights in favour of third parties, restrictions on transfer of title, taxes or other claims or encumbrances, whether or not they have attached or been perfected, registered, published or filed and whether secured, unsecured or otherwise (collectively, the "~~Encumbrances~~" "Claims"), including, without limiting the generality of the foregoing, all encumbrances created by order of this Court, all charges, or security ~~interests or charges~~ evidenced by registration, publication or filing pursuant to ~~the Civil Code of Québec, the [Province(s)] Personal Property Security Act, or any other applicable legislation providing for a security interest in personal or movable property (all of which are collectively referred to as the "Encumbrances")~~, excluding however, the permitted encumbrances, easements and restrictive covenants listed on Schedule "B" hereto (the "~~Permitted Encumbrances~~") and, for greater certainty, ~~ORDERS that all of the Encumbrances affecting or relating to the Purchased Assets, other than the Permitted Encumbrances, be expunged and discharged as against the Purchased Assets, in each case effective as of the applicable time and date of the Certificate~~for greater certainty the Biostream Charge (as defined below).

⁶ ~~The "Encumbrances" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served.~~

- [12] ~~ORDERS and DECLARES that upon the issuance of the Certificate, the rights and obligations of the Vendor under the Agreements listed on Schedule "C" hereto (the "Assigned Agreements") are assigned to the Purchaser [and ORDERS that all monetary defaults of the Debtor in relation to the Assigned Agreements – other than those arising by reason only of the insolvency of the Debtor, the commencement of proceedings under the [BIA/CCAA] or the failure to perform non-monetary obligations – shall be remedied on or before ●].~~
- [13] ~~DECLARES that upon issuance of the Certificate, the Transaction shall be deemed to constitute and shall have the same effect as a sale under judicial authority as per the provisions of the Code of Civil Procedure and a forced sale as per the provisions of the Civil Code of Quebec. [This paragraph is only required when the sale is done by a Receiver]~~
- [14] ~~ORDERS and DIRECTS the [Vendor/Receiver/Trustee/Monitor] to serve a copy of this Order to every party to the Assigned Agreements.~~
- [15] ~~ORDERS and DIRECTS the [Receiver/Trustee/Monitor] to file with the Court a copy of the Certificate, forthwith after issuance thereof.~~

CANCELLATION OF SECURITY REGISTRATIONS⁷⁸⁹

For Quebec Property:

- [16] ~~ORDERS the Land Registrar of the Land Registry Office for the Registry Division of ●, upon presentation of the Certificate in the form appended as Schedule "A" and a certified copy of this Order accompanied by the required application for registration and upon payment of the prescribed fees, to publish this Order and (i) to make an entry on the Land Register showing the Purchaser as the owner of the immovable property identified in Schedule "●" hereto (the "Quebec Real Property") and (ii) to cancel any and all Encumbrances on Quebec Real Property (other than Permitted Encumbrances), including, without limitation, the following registrations published at the said Land Registry Office:~~

⁷ This Model Order provides a model for Quebec Courts to effect the vesting of assets in the Province of Quebec as well as in other Canadian provinces. In each province other than Quebec, the provisions of the Model Order dealing with registration of title and the discharge of encumbrances will have to be adjusted to refer to the appropriate registry and related offices and the appropriate terminology. Province-specific orders are identified in this Model Order. While the Model Order contains proposed language, verifications with lawyers in the relevant jurisdiction is advisable.

⁸ Land registries in both in Quebec and in the rest of Canada may be consulted prior to the issuance of a vesting order so as to validate the language of the proposed orders relating to said land registries. This procedure, known as a "pre-validation procedure" in Quebec, is recommended so as to ensure that the vesting order is properly registered without undue delay after its issuance.

⁹ The registration of a vesting order with a land registry may be subject to statutory delays. For instance, in Quebec, land registrars require the expiry of the delay for appeal before a judgment cancelling a registration can be published.

~~▪ [provide details of security/encumbrances to be discharged]~~

~~[17] **ORDERS** the Quebec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Certificate, to **[reduce the scope of]** or **[strike]** the registrations number **[provide details of security/encumbrances to be discharged]** in connection with the Purchased Asset in order to allow the transfer to the Purchaser of the Purchased Assets free and clear of such registrations.~~

For Ontario Property:

~~[18] **ORDERS** that upon registration in the Land Registry Office~~

~~(a) **[NTD: For Land Titles System]:** for the Land Titles Division of **●** of an Application for Vesting Order in the form prescribed by the Land Registration Reform Act (Ontario), including a law statement confirming that the Certificate has been filed, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in **Schedule "●"** (the "**Ontario Real Property**") hereto in fee simple, and is hereby directed to delete and expunge from title to the **●** **Real Property** all of the Encumbrances, which for the sake of clarity do not include the Permitted Encumbrances listed on Schedule B;~~

~~(b) **[NTD: For Land Registry System]:** for the Registry Division of **●** of a Vesting Order in the form prescribed by the Land Registration Reform Act (Ontario), including a law statement confirming that the Certificate has been filed, the Land Registrar is hereby directed to record such Vesting Order in respect of the subject real property identified in **Schedule "●"** (the "**Ontario Real Property**"), which for the sake of clarity do not include the Permitted Encumbrances listed on Schedule B;~~

~~[19] **[NTD: For Movable Assets]: ORDERS** that upon the issuance of the Certificate, the Vendor shall be authorized to take all such steps as may be necessary to effect the discharge of all Encumbrances registered against the Purchased Assets, including filing such financing change statements in the Ontario Personal Property Registry ("**OPPR**") as may be necessary, from any registration filed against the Vendor in the **OPPR**, provided that the Vendor shall not be authorized to effect any discharge that would have the effect of releasing any collateral other than the Purchased Assets, and the Vendor shall be authorized to take any further steps by way of further application to this Court.~~

For British Columbia Property:

~~[20] **[NTD: For Immovable Assets]: ORDERS** the British Colombia Registrar of Land Titles (the "**BC Registrar**"), upon the registration in the Land Title Office for the Land Title District of **●** of a certified copy of this Order, together with a letter from **[Receiver/Trustee/Monitor's counsel]**, solicitors for the **[Receiver/Trustee/Monitor]**, authorizing registration of this Order;~~

~~(a) to enter the Purchaser as the owner of the lands, as identified in Schedule "**●**" hereto (the "**BC Real Property**"), together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments~~

~~belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the BC Real Property; and~~

~~(b) having considered the interest of third parties, to discharge, release, delete and expunge from title to the BC Real Property all of the registered Encumbrances except for those listed in Schedule "●".~~

~~[21] [NTD: For Immovable Assets]: DECLARES that it has been proven to the satisfaction of this Court on investigation that the title of the Purchaser in and to the BC Real Property is a good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of the Purchaser as aforesaid.~~

~~[22] [NTD: For Movable Assets]: ORDERS that upon the issuance of the Certificate, the Vendor shall be authorized to take all such steps as may be necessary to effect the discharge of all Encumbrances registered against the Purchased Assets, including filing such financing change statements in the British Columbia Personal Property Security Registry (the "BC PPR") as may be necessary, from any registration filed against the Vendors in the BC PPR, provided that the Vendors shall not be authorized to effect any discharge that would have the effect of releasing any collateral other than the Purchased Assets, and the Vendors shall be authorized to take any further steps by way of further application to this Court.~~

For New Brunswick Property:

~~[23] [NTD: For Immovable Assets]: ORDERS that upon registration in the Land Registry Office for the Registry Division of ● of an Application for Vesting Order in the form prescribed by the Registry Act (New Brunswick) duly executed by the [Receiver/Trustee/Monitor], the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule "●" (the "NB Real Property") in fee simple, and is hereby directed to delete and expunge from title to the NB Real Property, all of the Encumbrances, other than the Permitted Encumbrances.~~

~~[24] [NTD: For Movable Assets]: ORDERS that upon the issuance of the Certificate, the Vendor shall be authorized to take all such steps as may be necessary to effect the discharge of all Encumbrances registered against the Purchased Assets, including filing such financing change statements in the New Brunswick Personal Property Registry (the "NBPPR") as may be necessary, from any registration filed against the Vendor in the NBPPR, provided that the Vendor shall not be authorized to effect any discharge that would have the effect of releasing any collateral other than the ● Assets, and the Vendor shall be authorized to take any further steps by way of further application to this Court.~~

NET PROCEEDS

- ~~[25] ORDERS that the net proceeds¹⁰ from the sale of the Purchased Assets (the "Net Proceeds") shall be remitted to the [Receiver/Trustee/Monitor] and shall be distributed in accordance with applicable legislation.~~
- [15] For greater certainty, ORDERS that all of the Encumbrances, affecting or relating to the Purchased Assets be cancelled and discharged as against the Purchased Assets, in each case effective as of the issuance of the Monitor's Certificate.
- [16] ~~[26]~~ **ORDERS** that for the purposes of determining the nature and priority of ~~the Encumbrances~~ Claims, the ~~Net Proceeds~~ net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that ~~upon payment from and after the delivery of the Purchase Price (as defined in the Purchase Agreement) by the Purchaser, all Encumbrances except for the Permitted~~ Monitor's Certificate all Claims and Encumbrances shall attach to the ~~Net Proceeds~~ net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
- [17] ORDERS that the Monitor may rely on written notice from the Seller and the Buyer regarding the fulfillment of conditions to closing under the Binding LOI and shall have no liability with respect to the delivery of the Monitor's Certificate.
- [18] ORDERS the Monitor to file with the Court a copy of the Monitor's Certificate, as soon as practicable after issuance thereof.
- [19] ORDERS AND DIRECTS the Monitor to serve on the service list in the within CCAA proceedings, post on the Monitor's website and file with the Court a copy of the Monitor's Certificate, as soon as practicable after the issuance thereof.

CANCELLATION OF SECURITY REGISTRATIONS

- [20] ORDERS that upon the issuance of the Monitor's Certificate, the Petitioners shall be authorized to take all such steps as may be necessary to effect the discharge of all Encumbrances registered against the Purchased Assets from any registration filed against the Petitioners, provided that the Petitioners shall not be authorized to effect any discharge that would have the effect of releasing any collateral other than the Purchased Assets, and the Petitioners shall be authorized to take any further steps by way of further application to this Court.

¹⁰ ~~_. The Motion and related draft order should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "Net Proceeds".~~

BIOSTREAM CHARGE

- [21] **DECLARES** that the Seller, as security for the payments to be made by the Buyer pursuant to the Biostream Transaction, be entitled to the benefit of and is hereby granted a charge and security in the five biostream units of the Purchase Assets, to the extent of the aggregate amount of \$2,000,000 (the "**Biostream Charge**").
- [22] **DECLARES** that following the initial payment by the Buyer equivalent to 25% of the Purchase Price, such charge will be discharged on a unit-by-unit basis following the payment of each instalment payment received by the Monitor from the Buyer, as confirmed by the issuance of Monitor's certificates confirming receipt of the instalments and reductions of the Biostream Charge, except for the Biostream Charge on the last biostream unit which will only be discharged upon receipt by the Monitor of the balance of payment of the Purchase Price and as confirmed by the issuance of a Monitor's certificate confirming that the Purchase Price has been paid in full and cancelling and discharging the Biostream Charge.
- [23] **DECLARES** that the Biostream Charge shall rank in priority to any and all other hypothecs, mortgages, liens, security interests, priorities, charges, options, encumbrances or security of whatever nature or kind (collectively, the "**Encumbrances**") affecting the Purchase Assets.

PROTECTION OF PERSONAL INFORMATION

- [24] ~~[27]~~ **ORDERS** that, pursuant to sub-section 7(3)(c) of the ~~Canada~~ *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5 or any similar provision of any applicable provincial legislation (collectively, the ~~Receiver~~ is "**Applicable Privacy Laws**"), the Petitioners and the Monitor are authorized and ~~permitted~~ to disclose and transfer to the ~~Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "•" to the Purchase Agreement~~ Buyer the personal information in the custody or control of the Petitioners set out in the Binding LOI (the "**Disclosed Information**"). The ~~Purchaser~~ Buyer shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor;⁴⁴ ~~[NOTE: It is desirable to obtain specific evidence in order to convince the Tribunal of the necessity of this clause];~~ Petitioners.
- [25] **ORDERS** that the Buyer shall:

⁴⁴ ~~—This paragraph may not be necessary depending on the nature of the Purchased Assets.~~

- (a) maintain and protect the Disclosed Information with security safeguards appropriate to the Disclosed information and as may otherwise be required by Applicable Privacy Laws;
- (b) use and disclose the Disclosed Information for the purposes for which the Disclosed Information was collected by the Petitioners and as may otherwise be permitted by Applicable Privacy Laws; and
- (c) give effect to any withdrawals of consent of the individuals to whom the Disclosed Information relates.

VALIDITY OF THE TRANSACTION

[26] ~~[28]~~ **ORDERS** that notwithstanding:

- (a) ~~(i)~~ the pendency of these proceedings;
- (b) ~~(ii)~~ any petition for a ~~receiving~~ bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* ~~("~~, RSC 1985, c B-3 BIA) and any order issued pursuant to any such petition; or
- (c) ~~(iii)~~ the provisions of any federal or provincial legislation;

the vesting of ~~the~~ Purchased Assets contemplated in this Order, as well as the execution of the ~~Purchase Agreement~~ Binding LOI and the assignment of the Assumed Contracts authorized by this Order, and the payments, distributions and disbursements made pursuant to or in connection with this Order, are to be binding on any trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the ~~Vendor~~ Petitioners, the ~~Purchaser~~ Buyer, or the ~~Receiver/Trustee/Monitor~~, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

LIMITATION OF LIABILITY

~~[29]~~ **DECLARES** that, ~~subject to other orders of this Court, nothing herein contained shall require the [Receiver/Trustee/Monitor] to occupy or to take control, or to otherwise manage all or any part of the Purchased Assets. The [Receiver/Trustee/Monitor] shall not, as a result of this Order, be deemed to be in possession of any of the Purchased Assets within the meaning of environmental legislation, the whole pursuant to the terms of the [BIA/CCAA];~~

THE MONITOR

- [27] DECLARES that the Monitor shall incur no liability as a result of acting in accordance with this Order, other than any liability arising out of or in connection with the gross negligence or wilful misconduct of the Monitor.
- [28] ~~[30]~~ **DECLARES** that no action lies against the ~~[Receiver/Trustee/Monitor]~~ by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the ~~[Receiver/Trustee/Monitor]~~ or belonging to the same group as the ~~Receiver~~Monitor shall benefit from the protection arising under the present paragraph.
- [29] DECLARES that nothing contained herein shall require the Monitor to occupy or to take control, or to otherwise manage all or any part of the assets of the Petitioners. The Monitor shall not, as a result of this Order, be deemed to be in possession of any assets of the Petitioners within the meaning of environmental legislation, the whole pursuant to the terms of the CCAA.
- [30] ORDERS AND DECLARES that no provision of this Order is intended to appoint the Monitor as an officer, director or employee of any of the Petitioners, de facto or otherwise, or to create a fiduciary duty to any party, including any creditor or shareholder of the Petitioners. Additionally, nothing in this Order shall constitute or be deemed to constitute the Monitor as a receiver, assignee, liquidator, or receiver and manager of any of the Petitioners and any distribution made to the creditors of the Petitioners will be deemed to have been made by the Petitioners.

SEALING

- [31] ORDERS that the Binding LOI, Exhibit P-5 shall be filed under seal and kept confidential until further order of this Court.

GENERAL

- ~~[31] **ORDERS AND DECLARES** that the Transaction is exempt from the application of the Bulk Sales Act (Ontario). [NOTE: It is desirable to obtain specific evidence in order to convince the Tribunal of the necessity of this clause] [Ontario – Adapt for other common law Provinces where applicable]~~
- ~~[32] **ORDERS** that the Purchaser or the [Vendor/Receiver/Trustee/Monitor] shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.~~
- ~~[33] **ORDERS** that the Purchase Agreement be kept confidential and under seal until the earlier of a) the closing of the Transaction; or b) further order of this Court.~~

- [32] ~~[34]~~ **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada;
- ~~[35]~~ **DECLARES** that the ~~[Vendor/Receiver/Trustee/Monitor]~~ shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and, without limitation to the foregoing, an order under Chapter 15 of the U.S. Bankruptcy Code, for which the ~~[Vendor/Receiver/Trustee/Monitor]~~ shall be the foreign representative of the Debtor. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the ~~[Vendor/Receiver/Trustee/Monitor]~~ as may be deemed necessary or appropriate for that purpose;
- [33] **DECLARES** that the Petitioners or the Monitor may, from time to time, apply to this Court for directions concerning the exercise of their respective powers, duties and rights hereunder or in respect of the proper execution of this Order on notice only to each other and the Buyer.
- [34] **DECLARES** that the Petitioners and the Monitor shall be entitled to seek leave to vary this Order upon such terms and such notice as this Court deems just.
- [35] ~~[36]~~ **REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body in any Province of Canada and any Canadian federal court or ~~administrative body and any federal or state court or administrative body~~ in the United States of America, including without limitation the United States Bankruptcy Court for the District of Delaware, and any court or administrative body elsewhere, to ~~act in aid of and to be complementary to this Court~~ give effect to this Order, and to assist the Petitioners, the Monitor and their respective agents in carrying out the terms of the this Order; All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioners and the Monitor as may be necessary or desirable to give effect to this Order in any foreign proceeding, to assist the Petitioners, the Monitor and their respective agents in carrying out this Order.
- [36] ~~[37]~~ **ORDERS** ~~the~~ provisional execution of ~~the present~~ this Order notwithstanding any appeal and without ~~the requirement to provide any security or provision for costs whatsoever;~~
- [37] **THE WHOLE** ~~[WITH/WITHOUT] COSTS~~ without costs.

•, J.S.C. Christian Immer, JCS

MTRE. SANDRA ABITAN
MTRE. JULIEN MORISSETTE
MTRE. ILIA KRAVTSOV
MTRE. SOPHIE COURVILLE
(OSLER HOSKIN & HARCOURT LLP)

Attorneys for the Petitioners

Hearing date: May 24, 2023

SCHEDULE "A"

DRAFT CERTIFICATE OF THE [RECEIVER/TRUSTEE/MONITOR]

CANADA

**PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL**

File: No: 500-11-●

SUPERIOR COURT

Commercial Division

IN THE MATTER OF ●:

●

Debtor

-and-

●

[Petitioner]

-and-

●

[Receiver/Trustee/Monitor]

●

CERTIFICATE OF THE [RECEIVER/TRUSTEE/MONITOR]

CANADA

**PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

No.: 500-11-061483-224

SUPERIOR COURT

(Commercial Division)

**(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, RSC
1985, c. C-36)**

**IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF:**

**FORMERXBC INC. (FORMERLY XEBEC
ADSORPTION INC.)**

**11941666 CANADA INC. (FORMERLY XEBEC
RNG HOLDINGS INC.)**

APPLIED COMPRESSION SYSTEMS LTD.

1224933 ONTARIO INC. (FORMERLY

COMPRESSED AIR INTERNATIONAL INC.)
FORMERXBC HOLDING USA INC. (FORMERLY
XEBEC HOLDING USA INC.)
ENERPHASE INDUSTRIAL SOLUTIONS, INC.
CDA SYSTEMS, LLC
FORMERXBC ADSORPTION USA INC.
(FORMERLY XEBEC ADSORPTION USA INC.)
FORMERXBC PENNSYLVANIA COMPANY
(FORMERLY THE TITUS COMPANY)
FORMERXBC NOR CORPORATION
(FORMERLY NORTEKBELAIR CORPORATION)
FORMERXBC FLOW SERVICES - WISCONSIN
INC. (FORMERLY XBC FLOW SERVICES -
WISCONSIN INC.)
CALIFORNIA COMPRESSION, LLC
FORMERXBC SYSTEMS USA, LLC (FORMERLY
XEBEC SYSTEMS USA, LLC)

Debtors/Petitioners

-and-

DELOITTE RESTRUCTURING INC.

Monitor

CERTIFICATE OF THE MONITOR
(CLOSING OF THE BIOSTREAM TRANSACTION AND CREATION OF THE
BIOSTREAM CHARGE)

RECITALS:

~~WHEREAS on ●, the Superior Court of Quebec (the "Court") issued a ● order (the "● Order") pursuant to the ● (the "Act") in respect of ● (the "Petitioners"); [NTD: refer to BIA notice of intention/proposal if applicable]~~

~~WHEREAS pursuant to the terms of the [● Order/NOI], ● (the "[Receiver/Trustees/Monitor]") was named [Receiver/Trustees/Monitor] of the Petitioner; and~~

WHEREAS on September 29, 2022, the Debtors/Petitioners Xebec Adsorption Inc. et al. filed an Application pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended ("CCAA") and Deloitte Restructuring Inc. was appointed as monitor thereto (the "Monitor").

WHEREAS on ~~May 24, 2023~~, the Court issued ~~an Order~~ the Approval, Vesting and Assignment Order in Respect of Assets of FormerXBC Systems USA, LLC (the "Approval and Vesting Order") ~~thereby, inter alia,~~ authorizing and approving, inter alia, the execution ~~by~~ of the ~~Petitioner of an~~ Binding LOI and the conclusion of a definitive asset purchase agreement ~~entitled - Agreement~~ reflecting the terms of the Binding LOI (the "Purchase Agreement") ~~by and,~~ between ~~FormerXBC Systems USA, LLC~~, as ~~vendor~~ seller, (the "VendorSeller"), and ~~lvys Adsorption Inc.~~ as ~~purchaser~~ buyer, (the "Purchaser"), ~~copy of which was filed in the Court record,~~ "Buyer") and ~~into~~ all the transactions contemplated therein (the "Transaction"), with such non-material alterations, changes, amendments, deletions or additions thereto, as may be agreed ~~to~~ with the consent of the ~~{Receiver/Trustees/Monitor}~~.

WHEREAS the Approval and Vesting Order contemplates the issuance of this Certificate of the ~~{Receiver/Trustees/Monitor}~~ once ~~the~~ (a) the Purchase Agreement has been executed and delivered; ~~and,~~ (b) the ~~Purchase Price~~ Initial Payment (as provided by the Binding LOI and defined in the Purchase Agreement) has been paid ~~by the Purchaser;~~ and (c) ~~and~~ all the conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

WHEREAS, following confirmation of the above, it also contemplated that the Monitor will issue this Certificate creating and effecting the Biostream Charge (as defined in the Approval and Vesting Order).

THE ~~{RECEIVER/TRUSTEES/MONITOR}~~ CERTIFIES ~~{THAT IT HAS BEEN ADVISED BY THE VENDORSELLER AND THE PURCHASERBUYER AS TO}~~ THE FOLLOWING:

- (a) the Purchase Agreement has been executed and delivered;
- (b) the ~~Purchase Price (as defined in the Purchase Agreement)~~ Initial Payment payable upon the closing of the Transaction ~~and all applicable taxes have~~ has been paid; ~~and~~ received by the Monitor;
- (c) all conditions to the closing of the Transaction have been satisfied or waived by the parties thereto, such that closing has occurred; and
- (d) The Biostream Charge is accordingly created and effected, in accordance with para. 21 of the Approval and Vesting Order.

This Certificate was issued by the ~~{Receiver/Trustees/Monitor}~~ at ~~_____~~ [TIME] on ~~_____~~ [DATE], 2023.

- Deloitte Restructuring Inc., in its capacity as
- Monitor and not in its personal capacity.

Name: Jean-François Nadon, CPA, CIRP, LIT

Name:

Title:

President

- 5 -

SCHEDULE "B"

PERMITTED ENCUMBRANCES

- 6 -

SCHEDULE "C"

ASSIGNED AGREEMENTS

EXHIBIT P-5
Under Seal

No: 500-11-061483-224

**SUPERIOR COURT
(Commercial Division)**

(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, RSC 1985, c.
C-36)

DISTRICT OF MONTRÉAL

**IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF:**

FORMERXBC INC. & AL

Debtors / Petitioners

and.

DELOITTE RESTRUCTURING INC.

Monitor

**APPLICATION FOR (I) AN EXTENSION OF THE
STAY OF PROCEEDINGS, (II) THE
ESTABLISHMENT OF A CLAIMS PROCESS, (III)
THE AUTHORIZATION TO USE NET PROCEEDS
TO FUND CASH-FLOW REQUIREMENTS AND
(IV) THE ISSUANCE OF AN APPROVAL AND
VESTING ORDER IN RESPECT OF BIOSTREAM
ASSETS OF FORMERXBC SYSTEMS USA, LLC
(FORMERLY XEBEC SYSTEMS USA, LLC),
AFFIDAVIT, NOTICE OF PRESENTATION, LIST
OF EXHIBITS, EXHIBITS P-1 TO P-4A
(Sections 11 and 11.02 of the *Companies'*
Creditors Arrangement Act, RSC 1985, c C-36)**

ORIGINAL

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