CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

S U P E R I O R C O U R T
(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:

XEBEC ADSORPTION INC.

-and-

XEBEC RNG HOLDINGS INC.

-and-

APPLIED COMPRESSION SYSTEMS LTD.

-and-

COMPRESSED AIR INTERNATIONAL INC.

-and-

XEBEC HOLDING USA INC.

-and-

ENERPHASE INDUSTRIAL SOLUTIONS, INC.

-and-

CDA SYSTEMS, LLC

-and-

XEBEC ADSORPTION USA INC.

-and-

THE TITUS COMPANY

-and-

NORTEKBELAIR CORPORATION

-and-

XBC FLOW SERVICES – WISCONSIN INC.

-and-

CALIFORNIA COMPRESSION, LLC

-and-

XEBEC SYSTEMS USA, LLC

Debtors / Petitioners

-and-

DELOITTE RESTRUCTURING INC.

Monitor

-and-

DESJARDINS SECURITIES INC.

-and-

TD SECURITIES INC.

-and-

NATIONAL BANK FINANCIAL INC.

-and-

CANACCORD GENUITY GROUP INC.

-and-

RAYMOND JAMES LTD.

-and-

BEACON SECURITIES LIMITED

-and-

STIFEL NICOLAUS CANADA INC.

Mises-en-cause

APPLICATION FOR AN EXTENSION OF THE STAY OF PROCEEDINGS TO CERTAIN THIRD PARTIES

(Sections 11 of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36)

TO THE HONOURABLE JUSTICE CHRISTIAN IMMER OR TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT, SITTING IN COMMERCIAL DIVISION, IN THE JUDICIAL DISTRICT OF MONTRÉAL, THE DEBTORS / PETITIONERS RESPECTFULLY SUBMIT AS FOLLOWS:

I. INTRODUCTION AND BACKGROUND

1. The Debtors / Petitioners Xebec Adsorption Inc. ("**Xebec Inc.**"), Xebec RNG Holdings Inc., Applied Compression Systems Ltd., Compressed Air International Inc., Xebec Holding USA Inc., Enerphase Industrial Solutions, Inc., California Compression, LLC, CDA Systems, LLC, Xebec Adsorption USA Inc., The Titus Company, Nortekbelair Corporation, Xebec Systems USA, LLC, XBC Flow Services – Wisconsin Inc. (collectively with Xebec Inc., the "**Petitioners**") are collectively global providers of sustainable gas solutions used in energy, mobility

and industry applications, headquartered in Montréal, Québec (along with various overseas subsidiaries, the "**Xebec Group**").

2. On September 29, 2022, at the Petitioners' request, the Court issued a First Day Initial Order (the "**FDIO**") pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36 ("**CCAA**") and a Bidding Procedures Order (the "**Bidding Procedures Order**" collectively with the FDIO, the "**First Day Orders**"), as appears from the Court record.

3. The FDIO, *inter alia*:

   (a) appointed Deloitte Restructuring Inc. as monitor of the Petitioners' CCAA proceedings (the "**Monitor**"); and

   (b) ordered a stay of proceedings in respect of the Petitioners and their directors and officers until October 7, 2022 (as extended from time to time, the "**Stay of Proceedings**").

4. The Bidding Procedures Order, *inter alia*:

   (a) approved the proposed Sale and Investment Solicitation Process (the "**SISP**"); and

   (b) approved the engagement of National Bank Financial Inc. ("**NBF**") to assist in the implementation of the SISP.

5. On October 7, 2022, at the Petitioners' request, the Court issued an Order extending the Stay of Proceedings until October 20, 2022, as appears from the Court record.

6. On October 18, 2022, the Petitioners filed an application for the issuance of an amended and restated initial order, notably seeking an extension of the Stay of Proceedings until November 28, 2022.

7. The Petitioners anticipate that they will seek further extensions of the Stay of Proceedings beyond November 28, 2022, in order to have sufficient time to complete the SISP and these CCAA proceedings, for the benefit of all of their stakeholders.

8. Xebec Inc. is a co-defendant to two proposed securities class actions instituted in 2021 and pending before the Superior Court of Québec and the Ontario Superior Court of Justice (the Class Actions, as defined below), alleging misrepresentations in its disclosure documents with respect to revenue accounting practices and internal controls, all of which are denied and contested.

9. Other co-defendants in the Class Actions include certain current and former directors and officers of Xebec Inc. and the financial institutions that acted as underwriters for an issuance and distribution of Xebec Inc. securities in December 2020 (the Underwriters, as defined below).

10. Xebec Inc. and its current and former directors and officers currently enjoy the benefit of the Stay of Proceedings with respect to the Class Actions. There is currently no direct stay of proceedings to the benefit of the Underwriters. Any continuation of the Class Actions against the Underwriters undermines the effectiveness of the Stay of Proceedings and impedes the Petitioners' restructuring.

11. By the present Application, the Petitioners are seeking an extension of the Stay of Proceedings to include the Underwriters in the context of the Class Actions, substantially in the form of the draft Order Extending the Stay of Proceedings to Certain Third Parties, communicated herewith as **Exhibit P-1**.

II. THE CLASS ACTIONS

12. On March 15, 2021, Mr. Mohamad Davarinia filed, in the Superior Court of Québec, an application for authorization to institute a securities class action in misrepresentations pursuant to article 574 the *Code of Civil Procedure* and section 225.4 of the *Securities Act*, which application was subsequently amended, resulting in the substitution of Mr. Davarinia with Messrs. Maurice Leclair and Evert Schuringa as co-Plaintiffs (the "**QC Plaintiffs**"), as appears from the *Re-Amended Application for Authorization to Institute a Class Action and to Bring a Statutory Misrepresentation Claim Pursuant to Articles 574 ff., C.C.P. and Section 225.4 of the Québec Securities Act* (the "**QC Class Action**"), communicated herewith as **Exhibit P-2**.

13. On March 19, 2021, Mr. Mark Arbour (the "**ON Plaintiff**" and collectively with the QC Plaintiffs, the "**Plaintiffs**") filed, in the Ontario Superior Court of Justice, a Notice of Action seeking the certification of the action as a securities class proceeding pursuant to the Ontario *Class Proceedings Act* and Part XXIII.1 of the Ontario *Securities Act* (the "**ON Class Action**", and collectively with the QC Class Action, the "**Class Actions**"), as appears from the Notice of Action dated March 19, 2021, communicated herewith as **Exhibit P-3**.

14. The defendants to the Class Actions are Xebec Inc., certain directors or officers of Xebec Inc. during the Class Period, as defined in the Class Actions (the "**Individual Defendants**"),[1] as well as financial institutions that acted as underwriters in connection with the issuance and distribution of Xebec Inc. securities in December 2020, namely the Mises-en-cause Desjardins Securities Inc., TD Securities Inc., National Bank Financial Inc., Canaccord Genuity Group Inc., Raymond James Ltd., Beacon Securities Limited, and Stifel Nicolaus Canada Inc. (the "**Underwriters**", and collectively with Xebec and the other co-defendants, the "**Defendants**").

15. The ON Plaintiff filed a Statement of Claim in support of the ON Class Action within 30 days of the filing of the Notice of Action, but failed to serve same on the

[1] Kurt Sorschak, Stéphane Archambault, Louis Dufour, William Beckett, and Guy Saint Jacques.

Defendants within 6 months of the filing of the Notice of Action as required by the applicable rules.

16. The Class Actions purport to advance proposed claims in damages brought on behalf of investors in Xebec Inc.'s securities against the Defendants for various alleged misrepresentations in Xebec Inc.'s public disclosure documents released during the Class Period, which alleged misrepresentations pertain to Xebec Inc.'s accounting policies, revenues, financial forecasts, internal controls, the whole as further detailed in the Class Actions (the "**Securities Claims**").

17. The Securities Claims are denied and contested by the Defendants.

18. The QC Class Action seeks a solidary condemnation of the Defendants.

19. The Underwriters hold a contractual indemnity from Xebec Inc. for their costs and liabilities arising from the Class Actions.

20. Pursuant to an Underwriting Agreement dated December 14, 2020, between Xebec Inc. and the Underwriters (the "**Underwriting Agreement**"), Xebec Inc. undertook to indemnify and save harmless the Underwriters, under certain terms and conditions, with regard to their costs and liabilities related to, *inter alia*, alleged misrepresentations in Xebec Inc. public disclosure documents, the whole as appears from section 14 of the Underwriting Agreement, communicated herewith as **Exhibit P-4**.

21. The authorization hearing in the QC Class Action is scheduled for December 6, 2022, during the pendency of these CCAA proceedings and more importantly, during the conduct of the SISP.

III. CURRENT STATUS OF CCAA PROCEEDINGS

22. Since the FDIO was issued on September 29, 2022, the limited resources of the Petitioners and their management team have been fully engaged in the restructuring. Notably, the Petitioners, acting under the supervision of the Monitor, have:

    (a) applied for the recognition of the First Day Orders under Chapter 15 of the U.S. Bankruptcy Code before the United States Bankruptcy Court for the District of Delaware;

    (b) continued to operate the Xebec Group in the ordinary course to maximize value for creditors;

    (c) worked to wind up operations of Xebec Italy SRL;

    (d) engaged in ongoing communications with the employees, customers and suppliers of the Xebec Group in order to maintain their operations and ensure a continued supply of goods;

(e) continued ongoing discussions and exchanges of information with National Bank of Canada ("**NBC**") and Export Development Canada ("**EDC**"), the Petitioners' secured lenders, and their respective financial advisors in connection with the Petitioners' interim financing requirements, which are paramount to the restructuring efforts of the Petitioners;

(f) engaged in ongoing communications with certain of their key customers with a view of negotiating an adjustment of certain terms of their respective contracts in order to alleviate the pressure on the Petitioners' liquidity requirements through these CCAA proceedings;

(g) entered into ongoing negotiations for an extension of the forbearance agreement with NBC until November 28, 2022;

(h) launched the SISP with the assistance of NBF; and

(i) worked on revised and updated cash flow statements, in consultation with the Monitor.

IV. EXTENSION OF THE SCOPE OF THE STAY OF PROCEEDINGS

23. The Petitioners hereby seek an order extending the Stay of Proceedings with regard to the Class Actions and any proceedings related to the Securities Claims to the Underwriters, in accordance with the draft Order Extending the Stay of Proceedings to Certain Third Parties (Exhibit P-1).

24. A key purpose of the Stay of Proceedings is to give the Petitioners breathing room in the face of pending or potential litigation so that they can focus on the continuation of their activities, their restructuring and ultimately the negotiation of an arrangement or compromise with their creditors. The Stay of Proceedings also serves to prevent certain creditors from securing an unfair advantage over other creditors during the restructuring process.

25. The continuation of the Class Actions against the Underwriters will notably:

(a) undermine the effectiveness of the Stay of Proceedings to the benefit of the Petitioners and their directors and officers;

(b) divert management attention and resources and result in unfairness to the Petitioners, the Individual Defendants and the Underwriters;

(c) result in increased costs to the Underwriters, including attorneys' fees and expert fees, resulting in an indemnity claim against Xebec Inc. pursuant to the Underwriting Agreement;

(d) potentially give the Plaintiffs an unfair advantage over other creditors; and

(e) be detrimental to the administration of justice.

26. Moreover, in the context of the CCAA, the Securities Claims against the Petitioners are equity claims, ranking behind payment in full of all claims of all unsecured creditors. Allowing the Plaintiffs to pursue the Class Actions against the Underwriters is tantamount to allowing them to do indirectly what the Stay of Proceedings precludes them from doing directly.

27. Should the Underwriters not be included in the scope of the Stay of Proceedings, the Plaintiffs will be allowed to pursue the same Securities Claims, for the same damages against the Underwriters, which will then seek indemnification from Xebec Inc. pursuant to the Underwriting Agreement.

28. The Securities Claims are based on alleged misrepresentations contained in Xebec Inc.'s public disclosure documents. The alleged misrepresentations concern Xebec Inc.'s accounting policies, revenues, financial forecasts, internal controls. Thus, the purported conduct of Xebec Inc. and the Individual Defendants are at the heart of the Class Actions.

29. The continuation of the Class Actions without the evidence and participation of the main protagonists would be detrimental to Xebec Inc. and the Individual Defendants, who would risk having the court draw conclusions of fact and law concerning them without being able to present their evidence and arguments.

30. It would also be detrimental to the Underwriters, that will be deprived of the evidence and arguments of Xebec Inc. and the Individual Defendants in connection with the facts giving rise to the Securities Claims as against them.

31. On the other hand, to the extent that Xebec Inc. and the Individual Defendants are required to become involved in the Class Actions as witnesses or otherwise, such involvement will constitute a significant distraction for the Petitioners. This distraction will have a negative impact on the Petitioners' ongoing operations and restructuring efforts.

32. Notably, the authorization hearing in the QC Class Action is scheduled to take place during the conduct of the SISP, which requires full attention and participation of the Petitioners' management.

33. Moreover, the continuation of the Class Actions against the Underwriters will be prejudicial to the administration of justice, by fostering the multiplicity of proceedings pertaining identical or similar factual and legal issues. This will not only be wasteful but could lead to contradictory findings with respect to different defendants in the Class Actions.

34. Finally, staying the Class Actions as against the Underwriters will favour the global and orderly resolution of all claims involving Xebec Inc. as part of a comprimise or arrangement, which is in the best interests of all stakeholders, including the Plaintiffs.

35. The extension of the Stay of Proceedings to the Underwriters with regard to the Class Actions and the Securities Claims is necessary for the Petitioners' restructuring efforts.

36. The Plaintiffs will not suffer any prejudice as a result of staying the Class Actions as against the Underwriters, as their claims will merely be deferred, should they not be resolved within the CCAA proceedings.

37. In any event, the benefits to stakeholders generally arising from a stay of the Class Actions against the Underwriters far outweigh any inconvenience the Plaintiffs may suffer as a result.

V. CONCLUSION

38. The Petitioners respectfully submit that they are justified to seek provisional execution of the order to be rendered on the present Application notwithstanding appeal, considering that the relief sought herein is beneficial for their stakeholders, and a stay of execution thereof would be detrimental to the value of their assets and to the potential recovery of their respective creditors as a whole.

39. For the reasons set forth above, the Petitioners believe that it is both appropriate and necessary that the relief being sought herein be granted.

40. The Plaintiffs have received service of this Application.

41. The Monitor and the Underwriters have informed the Petitioners that they support the present Application.

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

GRANT the present *Application for an Extension of the Stay of Proceedings to Certain Third Parties* (the "**Application**");

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

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.

MONTRÉAL, October 18, 2022

Osler, Hoskin & Harcourt LLP

Osler, Hoskin & Harcourt LLP
Mtre. Sandra Abitan | Mtre. Julien Morissette |
Mtre. Ilia Kravtsov
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Email notification: notificationosler@osler.com
Our file: 1233913

AFFIDAVIT

I the undersigned, Dimitrios Vounassis, domiciled for the purpose hereof at 700-1130 Sherbrooke Street West, in the city and judicial district of Montréal, Québec, H3A 2M8, solemnly declare the following:

1. I am the President and CEO of 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 an Extension of the Stay of Proceedings to Certain Third Parties* (the "**Application**").

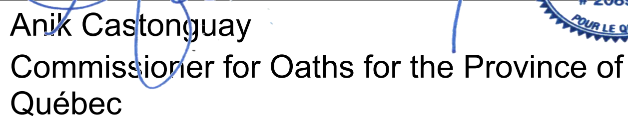
3. All of the facts alleged in the Application of which I have personal knowledge are true.

4. Where I 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 TECHNOLOGICAL MEANS IN MONTREAL, QUÉBEC, ON OCTOBER 18, 2022.



Anik Castonguay
Commissioner for Oaths for the Province of Québec

NOTICE OF PRESENTATION
COMMERCIAL DIVISION

TO: **SERVICE LIST** (See attached)

PRESENTATION OF THE PROCEEDING

TAKE NOTICE that the *Application for an Extension of the Stay of Proceedings to Certain Third Parties* will be presented for adjudication before the Commercial Division of the Superior Court of Québec, in a room and at the date and time to be determined by the Court.

HOW TO CONNECT TO THE VIRTUAL ROLL CALL

The coordinates for you to join the virtual calling of the roll are 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 fill in your name and click on «Join now» (« *Rejoindre maintenant* »). To facilitate the process, we invite you to fill in your name as follows:

Lawyers: Me First name, Last name (Name of the party you represent)

Trustees: First name, Last name (Trustee)

Superintendent: First name, Last name (Superintendent)

Parties not represented by a lawyer: First name, Last name (specify: Plaintiff, Defendant, Petitioner, Respondent, Creditor, Opponent or Other)

For individuals attending a public hearing: the mention can be limited to: (public)

By telephone:

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

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

Conference ID: 820 742 874#

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

Videoconference ID: 11973653703

In person: If and only if you do not have access to one of the above-mentioned technological means of connecting, you may then attend in room 16.10 of the Montréal Courthouse located at: 1, Notre-Dame Street East, Montréal, Québec.

DEFAULT TO PARTICIPATE IN THE VIRTUAL CALLING OF THE ROLL

TAKE NOTICE that if you wish to contest the proceeding, you must inform the initiator of the said proceeding in writing at the coordinates mentioned in the present Notice of Presentation at least 48 hours before the date of presentation 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.

OBLIGATIONS

Cooperation

TAKE NOTICE 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*).

Dispute prevention and resolution processes

TAKE NOTICE 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.

MONTRÉAL, October 18, 2022

Osler, Hoskin & Harcourt LLP

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

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

S U P E R I O R   C O U R T
(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:

XEBEC ADSORPTION INC.

-and-

XEBEC RNG HOLDINGS INC.

-and-

APPLIED COMPRESSION SYSTEMS LTD.

-and-

COMPRESSED AIR INTERNATIONAL INC.

-and-

XEBEC HOLDING USA INC.

-and-

ENERPHASE INDUSTRIAL SOLUTIONS, INC.

-and-

CDA SYSTEMS, LLC

-and-

XEBEC ADSORPTION USA INC.

-and-

THE TITUS COMPANY

-and-

NORTEKBELAIR CORPORATION

-and-

XBC FLOW SERVICES – WISCONSIN INC.

-and-

CALIFORNIA COMPRESSION, LLC

-and-

XEBEC SYSTEMS USA, LLC

Debtors / Petitioners

-and-

DELOITTE RESTRUCTURING INC.

Monitor

LIST OF EXHIBITS

P-1: Draft Order Extending the Stay of Proceedings to Certain Third Parties

P-2: *Re-Amended Application for Authorization to Institute a Class Action and to Bring a Statutory Misrepresentation Claim Pursuant to Articles 574 ff., C.C.P. and Section 225.4 of the Québec Securities Act*

P-3: Notice of Action dated March 19, 2021

P-4: Underwriting Agreement dated December 14, 2020

MONTRÉAL, October 18, 2022

Osler, Hoskin & Harcourt LLP

Osler, Hoskin & Harcourt LLP
Attorneys for Debtors / Petitioners

Exhibit P-1

Draft Order Extending the Stay of Proceedings to Certain Third Parties

Exhibit P-1

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-061483-224

DATE: , 2022

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

IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF:

XEBEC ADSORPTION INC.
XEBEC RNG HOLDINGS INC.
APPLIED COMPRESSION SYSTEMS LTD.
COMPRESSED AIR INTERNATIONAL INC.
XEBEC HOLDING USA INC.
ENERPHASE INDUSTRIAL SOLUTIONS, INC.
CDA SYSTEMS, LLC
XEBEC ADSORPTION USA INC.
THE TITUS COMPANY
NORTEKBELAIR CORPORATION
XBC FLOW SERVICES – WISCONSIN INC.
CALIFORNIA COMPRESSION, LLC
XEBEC SYSTEMS USA, LLC
Debtors / Petitioners

and

DELOITTE RESTRUCTURING INC.
Monitor

and

DESJARDINS SECURITIES INC.

and

TD SECURITIES INC.

and

NATIONAL BANK FINANCIAL INC.

and

CANACCORD GENUITY GROUP INC.

and

RAYMOND JAMES LTD.

and

BEACON SECURITIES LIMITED

and

STIFEL NICOLAUS CANADA INC.
Mises-en-cause

ORDER EXTENDING THE STAY OF PROCEEDINGS TO CERTAIN THIRD PARTIES

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[1] **CONSIDERING** the First Day Initial Order issued on September 29, 2022 (as amended and restated from time to time, the "**Initial Order**");

[2] **CONSIDERING** the *Application for an Extension of the Stay of Proceedings to Certain Third Parties* (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;

[3] **CONSIDERING** the filing by Messrs. Maurice Leclair and Evert Schuringa of a *Re-Amended Application for Authorization to Institute a Class Action and to Bring a Statutory Misrepresentation Claim Pursuant to Articles 574 ff., C.C.P. and Section 225.4 of the Québec Securities Act* before the Superior Court of Québec in court file 500-06-001135-215 (the "**QC Class Action**");

[4] **CONSIDERING** the filing by Mr. Mark Arbour of a Notice of Action pursuant to the *Class Proceedings Act* and Part XXIII.1 of the Ontario *Securities Act* before the Ontario Superior Court of Justice in court file CV-21-00659162-00CP (collectively with the QC Class Action, the "**Class Actions**");

[5] **CONSIDERING** that the Class Actions seek the authorization of securities class actions in damages based on alleged misrepresentations in public disclosure documents of Xebec Adsorption Inc. ("**Xebec Inc.**") released from November 10, 2020, to March 24, 2021, which alleged misrepresentations pertain to Xebec Inc.'s accounting policies, revenues, financial forecasts, and internal controls, as per the allegations of the Class Actions (the "**Securities Claims**");

[6] **CONSIDERING** that the defendants to the Class Actions are Xebec, individuals who were directors or officers of Xebec Inc. during the relevant period, as well as financial institutions that acted as underwriters in connection with the issuance and distribution of Xebec Inc. securities in December 2020, namely the Mises-en-cause Desjardins Securities Inc., TD Securities Inc., National Bank Financial Inc., Canaccord Genuity Group Inc., Raymond James Ltd., Beacon Securities Limited, and Stifel Nicolaus Canada Inc. (the "**Underwriters**");

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

[8] **GIVEN** the provisions of the CCAA;

THE COURT HEREBY:

[9] **GRANTS** the Application.

[10] **DECLARES** that all capitalized terms used but not otherwise defined in the present Order (this "**Order**") shall have the meanings ascribed to the in the Initial Order.

[11] **ORDERS** that during the Stay Period, no Proceeding in relation to the Class Actions or the Securities Claims shall be commenced, continued or take place against or in respect of any Person named as a defendant or respondent to the Class Actions, including the Underwriters (such Persons, the "**Defendants**"), except with the written consent of the Petitioners and the Monitor, or with leave of this Court. Any and all such Proceedings currently underway or directed to take place against or in respect of any of the Defendants, or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

[12] **DECLARES** that this Order and all other orders in these proceedings shall have full force and effect in all provinces and territories in Canada.

[13] **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.

[14] **ORDERS** the provisional execution of this Order notwithstanding appeal and without security.

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

____

Christian Immer, J.S.C.

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

Hearing date: ●, 2022

Exhibit P-2

Re-Amended Application for Authorization to Institute a Class Action and to Bring a Statutory Misrepresentation Claim Pursuant to Articles 574 ff., C.C.P. and Section 225.4 of the Québec Securities Act

Exhibit P-2

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-06-001135-215

(CLASS ACTION)

SUPERIOR COURT

(…)

MAURICE LECLAIR

-and-

(…)

EVERT SCHURINGA

Applicants

vs.

XEBEC ADSORPTION INC.

-and-

KURT SORSCHAK

-and-

STÉPHANE ARCHAMBAULT

-and-

LOUIS DUFOUR

-and-

WILLIAM BECKETT

-and-

GUY SAINT-JACQUES

-and-

DESJARDINS SECURITIES INC.

-and-

NATIONAL BANK FINANCIAL INC.

-and-

CANACCORD GENUITY GROUP INC.

-and-

RAYMOND JAMES LTD.

-and-

BEACON SECURITIES LIMITED

-and-

STIFEL NICOLAUS CANADA INC

Respondents

RE-AMENDED APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND TO BRING A STATUTORY MISREPRESENTATION CLAIM PURSUANT TO ARTICLES 574 ff., *C.C.P.* AND SECTION 225.4 OF THE *QUÉBEC SECURITIES ACT*

IN SUPPORT OF THIS RE-AMENDED APPLICATION FOR AUTHORIZATION, THE APPLICANTS RESPECTFULLY SUBMIT AS FOLLOWS:

I. DEFINITIONS

1. In this document, in addition to the terms that are defined elsewhere herein or in the *Québec Securities Act*, the following terms have the following meanings:

   a. "**Applicants**" (each being an "**Applicant**") means the Applicants (…), Maurice Leclair (…) and Evert Schuringa;

   b. **"*CBCA*"** *means Canada Business Corporations Act*, RSC, 1985, c C-44, as amended;

   c. "***C.C.P.***" means the *Code of Civil Procedure*, CQLR c C-25.01, as amended;

   d. **"*C.C.Q.*"** means the *Civil Code of Québec*, as amended;

e. "**Class**" and "**Class Members**" refer to the following group, other than the **Excluded Persons**:

    all persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired Xebec's securities during the Class Period, and held some or all of such securities as of the close of trading on the TSX on March 11, 2021 or March 24, 2021;

f. "**Class Period**" means the period from November 10, 2020 to March 24, 2021, both dates inclusive;

g. "**Equivalent Securities Acts**" means, collectively, the *Securities Act*, R.S.A. 2000, c. S-4, as amended; the *Securities Act*, R.S.B.C. 1996, c 418, as amended; *The Securities Act*, C.C.S.M. c. S50, as amended; the *Securities Act*, S.N.B. 2004, c. S-5.5, as amended; the *Securities Act*, R.S.N.L. 1990, c S-13, as amended; the *Securities Act*, S.N.W.T. 2008, c. 10, as amended; the *Securities Act*, R.S.N.S. 1989, c. 418, as amended; the *Securities Act*, S Nu 2008, c. 12, as amended; the *Securities Act*, R.S.P.E.I. 1988, c S-3.1, as amended; *Securities Act*, R.S.O. 1990, c. S.5, as amended; *The Securities Act, 1988*, S.S. 1988-89, c. S-42.2, as amended; and the *Securities Act*, S.Y. 2007, c. 16, as amended;

h. "**Excluded Persons**" means Xebec, each of the Underwriters, and their respective past or present subsidiaries, directors, officers, legal representatives, predecessors, successors and assigns, as well as the Individual Respondents, members of the immediate families of the Individual Respondents, and any entity in which the Individual Respondents hold a controlling interest;

i. "**FY 2020**" means Xebec's fiscal year ended December 31, 2020;

j. "**ICFR**" means Internal Controls over Financial Reporting;

j. "**Impugned Documents**" (each being an "**Impugned Document**") means the following documents:

    i. Xebec's Interim Financial Statements and MD&A for Q3 2020, filed on SEDAR on November 10, 2020, communicated herewith as **Exhibits P-1** and **P-2**, respectively; and

    ii. Xebec's Preliminary Short-Form Prospectus dated December 14, 2020 and Final Short-Form Prospectus dated December 21, 2020, communicated herewith as **Exhibit P-3** and **Exhibit P-4**, respectively (collectively, the "**Prospectus**"); and

    iii. Xebec's Material Change Report dated March 23, 2021, and Xebec's associated March 12, 2021 New Release titled "Xebec Provides

Updated 2020 Guidance," communicated herewith as **Exhibits P-16** and **P-11**, respectively;

k. "**Individual Respondents**" (each being an "**Individual Respondent**") means Kurt Sorschak, Stéphane Archambault, Louis Dufour, William Beckett and Guy Saint-Jacques;

l. "**MD&A**" means Management's Discussion and Analysis;

m. "**Offering**" means the issuance and distribution of the securities of Xebec in December 2020, as elaborated herein;

n. "**Q1**", "**Q2**", "**Q3**" and "**Q4**" means the reporting periods ended March 31, June 30, September 30, and December 31, respectively;

o. "***QSA***" means the *Québec Securities Act*, CQLR c V-1.1, as amended;

p. "**RNG**" means renewable natural gas;

q. "**SEDAR**" means the system for electronic document analysis and retrieval of the Canadian Securities Administrators;

r. "**TSX**" means the Toronto Stock Exchange;

s. "**Underwriters**" (each being an "**Underwriter**") means Desjardins Securities Inc., TD Securities Inc., National Bank Financial Inc., Canaccord Genuity Group Inc., Raymond James Ltd., Beacon Securities Limited and Stifel Nicolaus Canada Inc.; and

t. "**Xebec**" means the Respondent, Xebec Adsorption Inc.

II. NATURE OF THE ACTION

2. This is a securities class proceeding arising out of the misrepresentations in Xebec's Impugned Documents, which were released during the Class Period.

2.1. Xebec is a provider of gas purification solutions, namely biogas upgrading, natural gas, field gas, and hydrogen purification solutions for the clean energy/fossil fuels displacement markets. Xebec purports to report its financial statements, balance sheet and consolidated statements of income or loss in accordance with International Financial Reporting Standards.

2.2. Xebec has a significant accounting policy under which it purports to recognize and report revenue on its "long-term production type contracts" based on the percentage of completion revenue accounting method. Under this accounting method, Xebec purports to recognize and report revenue based on the progress

of the so-called long-term contracts. The progress of the contract is measured on the basis of the costs incurred as of the reporting period relative to the total estimated costs of the project.

2.3. The proper utilization of this revenue accounting method requires proper control systems and processes in order to measure the costs reliably and on a timely basis, and to ensure the project is fulfilled within the estimated costs and in time. At all material times relevant to this action, Xebec did not maintain the appropriate internal controls, processes and systems to ensure reliable financial reporting.

2.4. At all material times relevant to this action, Xebec experienced execution and delivery issues as well as project cancellations on its production type, long-term contracts, which negatively impacted Xebec's revenue and its revenue recognition practices.

2.5. As a direct result of Xebec's execution and delivery issues on its "long-term, production-type contracts", the costs of the projects grew larger than estimated. Therefore, Xebec's revenue accounting on the basis of the percentage of completion methodology was adversely affected. As a result, Xebec's Impugned Documents overstated the revenue, and contained misrepresentations.

3. The Applicants claim that the impugned disclosure documents of Xebec:

   a. overstated Xebec's revenue;

   b. contained revenue forecast of $70 to $80 million for FY 2020, which constituted a misrepresentation; and

   c. misrepresented the fact that Xebec failed to maintain proper internal controls necessary to ensure that its financial statements were reliable and free of material misstatements.

4. Those misrepresentations were partially corrected on March 12, 2021, when Xebec announced that:

   a. as a result of its improper revenue accounting practices and problems with long-term contracts, it had to take "extraordinary" charges and reverse $12.9 million in previously-recognized revenue, representing 23% of its full FY 2020 revenue; and

   b. as a result, Xebec would not meet the full year 2020 revenue forecast of $70-$80 million, rather FY 2020 revenue would be approximately $57 million, or approximately 24% lower than previously represented.

4.1. The misrepresentations were, furthermore, corrected on March 25, 2021, where Xebec's FY 2020 disclosures revealed that the revenue reversals and adjustments were not extraordinary charges. Rather, they would continue to negatively impact

Xebec's financial results during Q1 and Q2 of 2021 as Xebec continued to work through the order backlog that had caused the problem.

4.2. On August 12, 2021, in conjunction with the release of its Q2 2021 results, Xebec provided further particulars regarding the problems with its long-term RNG contracts and their negative impact on Xebec's financial results, including disclosing that it had experienced project cancellations in Q4 2020 (namely, during the Class Period).

4.3. As a result of Xebec's disclosures on March 12, 2021, the price of Xebec's securities plummeted by approximately 31% overnight on March 12, 2021. Xebec's stock price declined again following its March 25 and August 12, 2021 disclosures. Consequently, the Applicants and the Class suffered damages and losses.

5. The Applicants bring this action to recover their own and the Class's losses and damages, asserting the following rights of action:

   a. The statutory claim for damages for misrepresentation in primary market pursuant to sections 218 and 221 of the *QSA* and, if necessary, the concordant provisions of the Equivalent Securities Acts;

   b. The statutory claim for damages for misrepresentation in secondary market pursuant to section 225.8 of the *QSA* and, if necessary, the concordant provisions of the Equivalent Securities Acts;

   c. Article 1457 *C.C.Q.*; and

   d. The oppression remedy prescribed in section 241 of *CBCA*.

III. THE PARTIES

A. The Applicants

6. (…).

7. (…).

8. (…).

8.1. The Applicant Maurice Leclair is a retail investor residing in Laval, Québec. On March 4, 2021, he purchased 2,000 shares of Xebec at a purchase price of $6.98 per share, exclusive of commissions. He continued to hold those shares as of the end of the Class Period.

8.2. (…).

8.3. The Applicant Evert Schuringa is a retail investor residing in Amsterdam, the Netherlands. He acquired the securities of Xebec pursuant to Xebec's acquisition of HyGear, whereby his HyGear shares were converted to approximately 18,416 Xebec shares at a deemed value of $6.03 per Xebec share. Schuringa continued to hold those Xebec shares as of the end of the Class Period.

9. The Applicants incurred damages and losses on their investments in the securities of Xebec.

B. Xebec

10. Xebec is a provider of gas purification solutions, namely biogas upgrading, natural gas, field gas, and hydrogen purification solutions for the clean energy/fossil fuels displacement markets.

11. Xebec is incorporated under the *CBCA*. Xebec's head office and registered office is located in Blainville, Québec. Xebec has two manufacturing facilities, one of which is located in Blainville, Québec, and the other is located in Shanghai, China.

12. Xebec is a reporting issuer in Québec and the other provinces of Canada.

13. Xebec's securities traded on the TSX Venture Exchange until January 6, 2021 under ticker "XBC." Thereafter, Xebec's securities transitioned and were listed for trading on the TSX under ticker symbol "XBC."

14. Xebec's principal securities regulator is the Autorité des marchés financiers, the whole as appears in Xebec's profile on SEDAR, which is communicated herewith as **Exhibit P-5.**

14.1. During the time relevant to this action, Xebec experienced significant managerial changes.

14.2. On November 10, 2020, the date of commencement of the Class Period, Xebec announced the departure of its former Chief Financial Officer, Respondent Louis Dufour, the whole as appears in **Exhibit P-44**.

14.3. On February 12, 2021, a month before Xebec disclosed that its operational issues had negatively impacted its FY 2020 revenue and its revenue accounting practices, Xebec announced the departure of its former Chief Operating Officer and Director, Prabhu Rao, the whole as appears in **Exhibit P-45**.

C. Individual Respondents

15. At all material times relevant to this action, Kurt Sorschak was President, Chief Executive Officer, a director, Chairman of the board of directors, and Chair of the Governance Committee of the board of directors of Xebec. Sorschak is a director and an officer of Xebec within the meaning of the *QSA*. He resides in Québec.

16. At all material times relevant to this action, Louis Dufour was Chief Financial Officer and an officer of Xebec within the meaning of *QSA*, until November 10, 2020, where Xebec announced that Dufour had resigned effective immediately. Dufour resides in Québec.

17. Stéphane Archambault was appointed Chief Financial Officer of Xebec on November 10, 2020, replacing Louis Dufour. Archambault is an officer of Xebec within the meaning of the *QSA*. He resides in Québec.

18. At all material times relevant to this action, William Beckett was a director, the Lead Director, a member of the Audit Committee and a member of the Governance Committee of the board of directors of Xebec. Beckett is a director of Xebec within the meaning of the *QSA*. He resides in Québec.

19. At all material times relevant to this action, Guy Saint-Jacques was a director of Xebec, and Chair of the Audit Committee of the board of directors of Xebec. Saint-Jacques is a director of Xebec within the meaning of the *QSA*. He resides in Québec.

D. The Underwriters

20. The Underwriters are financial institutions who acted as underwriters in relation to the Offering pursuant to an Underwriting Agreement dated December 14, 2020, which is communicated herewith as **Exhibit P-6**.

21. In accordance with the terms of the Underwriting Agreement, it is governed by the laws of the Province of Québec.

IV. THE ACQUISITION OF HYGEAR AND RELATED OFFERING

22. On December 8, 2020, Xebec announced that it had entered into a definitive agreement to acquire all of the issued and outstanding shares of Green Vision Holding B.V., the parent company of HyGear Technology and Services B.V., which is located in the Netherlands ("**HyGear**"). Xebec paid cash consideration for this acquisition of € 82.0 million (approximately $127.3 million) and assumed € 18.4 million (approximately $28.6 million) of HyGear's debt. The acquisition of HyGear was extremely important to Xebec's business and its purported growth plans. Xebec described the transaction as a "transformative acquisition," which would enable it to accelerate its entry into the fast-growing hydrogen fuel market. Concurrently, Xebec announced the Offering in order to finance the acquisition of HyGear, the whole as appears in **Exhibit P-7**.

23. The Offering was undertaken pursuant to the Prospectus, and it was completed on or about December 30, 2020.The acquisition of HyGear was completed on or about December 31, 2020 using the proceeds of the Offering, the whole as appears in **Exhibits P-8** and **P-9**, respectively.

24. Pursuant to the Offering, Xebec:

    a. issued and publicly distributed 24,784,800 Subscription Receipts, at a price of $5.80 per subscription receipt, for gross proceeds of $143,751,840, and

    b. issued and distributed pursuant to a private placement further 10,905,174 Subscription Receipts at $5.80 per Subscription Receipt, for gross proceeds of $63,250,009;

    for the aggregate gross proceeds of $207,001,849.

25. The value of the Subscription Receipts was on par with their underlying common shares of Xebec. Upon the completion of the acquisition of HyGear, each Subscription Receipt was converted to a common share of Xebec at no additional cost to their holders.

26. All of the Underwriters acted as underwriters in relation to the public distribution component of the Offering. In connection therewith, the Underwriters received a commission fee of $0.29 per Subscription Receipt, or approximately $7.2 million in the aggregate.

27. Additionally, Desjardins Capital Markets and TD Securities Inc. acted as joint bookrunning agents in relation to the private placement component of the Offering, and received further cash commissions in connection therewith.

28. The Respondents' misrepresentations alleged herein, which were contained in the Prospectus, were significant. They allowed Xebec to maintain an artificially inflated price of its securities, which securities were sold and distributed by Xebec and the Underwriters to the public pursuant to the Prospectus, thus allowing Xebec to raise the funds it needed to successfully complete its acquisition of HyGear.

29. But for the misrepresentations in the Prospectus, Xebec would have been unable to complete the Offering on the terms reflected in the Prospectus, or at all. Consequently, it would have been unable to complete the acquisition of HyGear on the terms reflected in the Prospectus, or at all.

29.1. In connection with the acquisition of HyGear, Xebec issued and distributed 10,014,364 shares to the holders of HyGear shares at a deemed price of $6.03, corresponding to the weighted average trading price over the last 15 days prior to the date of announcement of the transaction. The holders of HyGear shares received 2.279 Xebec shares for each HyGear share, the whole as appears in **Exhibit P-17**.

29.2. The Applicant Schuringa received 18,416 Xebec shares for his HyGear shares in connection with Xebec's acquisition of HyGear.

V. XEBEC'S SIGNIFICANT ACCOUNTING POLICIES RELEVANT TO REVENUE RECOGNITION AND ACCOUNTS RECEIVABLE

30. Xebec is a Canadian provider of gas purification solutions, namely biogas upgrading, natural gas, field gas, and hydrogen purification solutions for the clean energy/fossil fuels displacement markets. Xebec reports its financial statements, balance sheet and consolidated statements of income or loss in accordance with International Financial Reporting Standards.

31. Xebec's significant accounting policies, which are outlined in its Audited Financial Statements for fiscal year 2019, describe Xebec's general revenue recognition policy as follows:

> The Company recognizes revenue on commercial equipment sales when it is probable that the economic benefits will flow to the Company and delivery has occurred. These criteria are generally met at the time the product is shipped and delivered to the customer and, depending on the delivery conditions, title and risk have passed to the customer. Provisions are established for estimated product returns and warranty costs at the time revenue is recognized. Cash received in advance of all of these revenue recognition criteria being met is recorded as contract liabilities,

the whole as appears in **Exhibit P-10**, at page 8.

32. Xebec's significant accounting policies elaborate that it uses the accounting method known as "percentage of completion" revenue accounting on its "long-term production type contracts", and further describe the conditions upon which the revenue recognition requirements are met, as follows:

> Revenues from long-term production-type contracts such as biogas purification equipment and engineering service contracts are determined under the percentage-of-completion method whereby revenues are recognized based on the costs incurred to date in relation to the total expected costs of a contract (costs being composed mainly of materials and labour). Costs and estimated profit on contracts in progress in excess of amounts billed are reflected as work in progress. Cash received in advance of revenues being recognized on contracts is recorded as contract liabilities,

the whole as appears in **Exhibit P-10**, at page 8.

33. Xebec, furthermore, assures investors that it exercises due care in order to ensure that the revenues and losses are reported properly and in a timely fashion, stating, as follows:

> The Company monitors its contracts with customers on a regular basis to determine if a loss is likely to occur. If a loss is anticipated on a contract, the entire estimated loss is recorded as a cost of goods sold in the year in which the loss becomes evident and reasonably estimable,

the whole as appears in **Exhibit P-10**, at page 8.

34. Furthermore, Xebec's significant accounting policies assure investors that, although contracts' conditions may change due to unforeseeable circumstances, Xebec's management properly exercises judgment at the time of the reporting of the financial statements in light of all available information in order to ensure proper application of the "percentage of completion" revenue accounting method. In that regard, Xebec's significant accounting policies state as follows:

> Percentage of completion and revenues from long-term production-type contracts
>
> Revenues recognized on long-term production-type contracts reflect management's best assessment by taking into consideration all information available at the reporting date and the result on each ongoing contract and its estimated costs. The management assesses the profitability of the contract by applying important judgments regarding milestones marked, actual work performed and estimate costs to complete. Actual results could differ because of these unforeseen changes in the ongoing contracts' models,

the whole as appears in **Exhibit P-10**, at page 14.

35. Additionally, Xebec's significant accounting policies provide that it must record proper allowances for expected credit losses, stating as follows:

> Allowance for expected credit loss
>
> The Company recognizes the impairment of financial assets in the amount of expected credit losses by means of the simplified approach, measuring impairment losses as lifetime expected credit losses the trade receivables have been assessed on a collective basis as they possess shared credit risk characteristics and have been grouped based on the days past due,

the whole as appears in **Exhibit P-10**, at page 14.

VI. THE EVENTS OUT OF WHICH THIS ACTION ARISES

A. Xebec's Long-Standing Internal Control Deficiencies

35.1. Xebec came into being in its current form in June of 2009, as a result of a "reverse take-over" and a "back-door listing" between a formerly privately-owned entity called Xebec Adsorption Inc. and QuestAir Technologies Inc., a public company

whose securities were listed on the Toronto Stock Exchange ("**QuestAir**"), all of which as appears in the Management Information Circular dated April 20, 2009, in relation to a special meeting of QuestAir's shareholders to be held on May 22, 2009, the whole as appears from **Exhibit P-18**, at pages 1-3.

35.2. At the relevant time prior to the amalgamation, QuestAir was a company incorporated under the CBCA, with its head office and principal place of business located in Burnaby, British Columbia.

35.3. QuestAir carried on business as a developer and supplier of advanced gas purification systems, with a primary focus on the biogas upgrading market. Amongst other products, QuestAir's offerings included compact, modular gas purification products which incorporated QuestAir's proprietary pressure swing adsorption technology. The pressure swing adsorption systems (also known as PSA systems) would constitute the core of Xebec's business following its acquisition of QuestAir.

35.4. Prior to the reverse take-over, the formerly privately-owned Xebec Adsorption Inc. was a company that purported to specialize in the design and manufacture of filtration, purification, separation and dehydration equipment for gases and compressed air.

35.5. Following the reverse take-over of QuestAir by Xebec Adsorption Inc., the Respondent Sorschak (who, at the time, was Xebec Adsorption Inc.'s principal shareholder) became President and Chief Executive Officer of the resulting entity.

35.6. In June 2009, Xebec's shares were listed on the Toronto Stock Exchange under ticker symbol "XBC", the whole as appears from **Exhibit P-19**, at pages 3, 8.

35.7. Since Xebec's reverse-takeover of QuestAir, Xebec never maintained effective internal controls. The new Xebec's first set of annual disclosures, issued and filed on SEDAR on March 29, 2010, state that the company's management "performed a high-level, minimally documented" evaluation of the effectiveness of Xebec's internal controls and identified "certain weaknesses." Specifically, "the company did not have sufficient accounting documentation, policy, procedures or segregation of duties for certain transaction cycles," according to Xebec, the whole as appears in **Exhibit P-19**, at pp 16-17.

35.8. In the years that followed, Xebec continued to report material weaknesses in its internal controls. Xebec's MD&A for fiscal year ended December 31, 2013, reported that Xebec's management had identified material weaknesses in its disclosure controls and procedures as well as ICFR, as follows:

a. Xebec failed to maintain proper "entity level controls," as it failed to maintain "A completely effective control environment." Specifically, Xebec failed to maintain "comprehensive procedure manuals to clearly communicate

management's and employee's roles and responsibilities in [its] internal control over financial reporting";

b. Xebec failed to "adequately maintain effective control over access to [its] accounting system within [its] accounting department," and it failed to test backup tapes to ensure their accuracy, amongst other deficiencies;

c. Xebec had "deficient controls within [its] accounting department over segregation of duties inherent to its size. Specifically, "certain financial personnel had incompatible duties that allowed for the creation, review and processing of certain financial data without independent review authorization"; and

d. Xebec identified "unusual transactions in [its] subsidiary Xebec Shanghai, which "resulted in adjustments to the Company's annual consolidated financial statements as at December 31, 2013." According to Xebec, it "dismissed" a management employee at Xebec Shanghai who was involved in those "unusual transactions";

the whole as appears in **Exhibit P-20**, at pages 21-22.

35.9. On or about December 23, 2013, Xebec's common shares were delisted from the Toronto Stock Exchange, and they were relegated to the Toronto Stock Exchange Venture (TSX-V), the whole as appears in **Exhibit P-20**, at page 9.

35.10. Following Xebec's relegation to TSX-V, Xebec became a "venture issuer" within the meaning of National Instrument 52-109. Venture issuers are not required to certify the design or effectiveness of their internal controls in their continuous disclosure certifications. Accordingly, Xebec's management ceased reporting on internal controls' design or effectiveness beginning in 2014.

35.11. Although as a venture issuer Xebec's management were not required under National Instrument 52-109 to certify the design or effectiveness of internal controls, Xebec was at all material times required to maintain proper internal controls to enable it to prepare and report reliable financial statements.

35.12. In 2020, Xebec sought relisting on the Toronto Stock Exchange, which required it to improve its internal controls to the requisite level such that their design and effectiveness would be certifiable.

35.13. Accordingly, Xebec embarked on a process to improve its internal controls. Xebec's management's statements during this process indicate that Xebec's internal controls had not improved, rather they had likely deteriorated over the years. During Xebec's Q3 2020 earnings call held on November 11, 2020, Respondent Sorschak acknowledged that Xebec was updating its controls systems and processes with "an upgraded ERP (Enterprise Resource Planning)

system," which Xebec expected to establish not before January 2021, the whole as appears in **Exhibit P-21**, at pages 6, 16.

35.14. At all material times, Xebec represented that it had proper internal controls. For example, in the Xebec's Audited Financial Statements for FY 2019, filed on SEDAR on April 15, 2020, the auditors' report to the shareholders states:

> Management is responsible for the preparation and fair presentation of the consolidated financial statements in accordance with International Financial Reporting Standards (IFRS), and for such internal control as management determines is necessary to enable the preparation of consolidated financial statements that are free from material misstatement, whether due to fraud or error,

the whole as appears in **Exhibit P-10**, at page 3 (of PDF).

35.15. The design, maintenance and implementation of proper and effective internal control systems and processes was imperative to ensure the accuracy and reliability of Xebec's disclosures and financial reporting.

35.16. To the extent that Xebec did not maintain proper internal controls necessary to enable the preparation of reliable financial statements that were free from material misstatements (which it did not maintain), that fact constituted a material fact that the Defendants ought to have disclosed.

35.17. Xebec's Impugned Documents however failed to disclose the material fact that Xebec did not maintain proper internal controls necessary to enable the preparation of reliable financial statements that were free from material misstatements.

35.18. The failure to disclose that Xebec failed to maintain appropriate internal controls constituted a misrepresentation.

B. Xebec Experienced Execution and Delivery Issues with "Long-Term, Production-Type Contracts"

35.19. At all material times relevant to this action, Xebec's core business involved the manufacturing of RNG facilities. In this line of business, which Xebec carries on through its Cleantech systems business segment, Xebec manufactures and provides systems and equipment to convert biogas to RNG from agricultural digesters, source separated facilities, landfill and Wastewater Treatment Plants. This process involves removing undesired gases and substances from biogas, and the production of purified biomethane, which is primarily done through Xebec's proprietary PSA systems.

35.20. A Xebec biogas upgrading facility is comprised of various system components, the whole as appears on Xebec's website, **Exhibit P-22**.

35.21. The manufacturing, delivery and installation of Xebec's RNG facilities are capital intensive and time-consuming. Proper management, processes and controls are essential in order to ensure that these contracts are executed and delivered in time and within budget.

35.22. At all material times, Xebec experienced execution and delivery issues with respect to its legacy, production-type RNG contracts, at both manufacturing and supply chain as Xebec's management acknowledged during the earnings call for Q2 2021, held on August 12, 2021, **Exhibit P-23**, at pages 4, 7, 9, 11, 19.

35.23. While Xebec has provided little information regarding the execution and delivery issues with its legacy RNG contracts, the following contracts are noteworthy.

B.1. Three-year, C$51 million minimum-commitment order in Italy

35.24. On May 16, 2018, Xebec announced that it was entering into "a minimum purchase order commitment for multiple Xebec biogas upgrading plants for a total value of Euro 33 million (CDN$51 million) to be delivered over three years." According to Xebec, this contract was being entered into with Sapio Group, an Italian entity located in Monza, Italy, the whole as appears in **Exhibit P-24**.

35.25. Xebec's disclosures indicate that the purported agreement with Sapio Group was a major business development for Xebec. On May 23, 2018, Xebec announced that it had appointed Francesco Massari as the General Manager of its European operations, reporting that it "anticipate[d] its Italian business to grow rapidly, requiring operational scale-up as order volume grows," the whole as appears in **Exhibit P-46**.

35.26. Xebec added the purportedly minimum commitment order of $51 million with Sapio Group to its order backlog, thereby increasing its order backlog from $13.9 million to $66.1 million (or by approximately 475%). The order backlog is a dollar figure and part of Xebec's historical disclosures, which indicates the dollar value of purchase orders where "contracts [have been] received and are considered as firm orders," according to Xebec, the whole as appears in Xebec's Q1 2018 MD&A, communicated herewith as **Exhibit P-25**, at page 14.

35.27. Since the announcement of this contract, Xebec has provided little information regarding how that order has been executed and how much of the $51 million, purportedly "minimum commitment" revenue has been earned and realized.

35.28. Nonetheless, Xebec's disclosures indicate that for the three years of 2018, 2019 and 2020, Xebec only realized approximately $10.6 million from its sales in Italy. The breakdown of Xebec's revenues from Italian sales is as follows:

	Reported Revenues from Italy
2018	$2,469,183
2019	$7,512,614
2020	$599,999
Total	$10,581,796

the whole as appears in Xebec's audited financial statements for FY 2018, **Exhibit P-26**, at page 42; Xebec's audited financial statements for FY 2019, **Exhibit P-10**, at page 37; and Xebec's audited financial statements for FY 2020, **Exhibit P-27**, at page 54.

35.29. Without providing any meaningful disclosure regarding the status of this contract, Xebec's Annual Information Form for FY 2020 states in passing that "Sapio and Xebec have extended their partnership to an additional year to provide adequate time to execute the projects. Projects based on this partnership are in the deployment and commissioning stage pending the end of the COVID-19 restrictions," the whole as appears in **Exhibit P-28**, at page 14.

35.30. Nonetheless, Xebec's Q2 2021 financial statements ceased reporting on Italy as a reportable business segment, the whole as appears in **Exhibit P-29**, at page 48. Of note, it appears that Xebec's General Manager for Europe, Francesco Massari, departed Xebec in or around December 2020, the whole as appears in **Exhibit P-47**.

35.31. While Xebec has not provided meaningful disclosure regarding its operations in Italy under the $51 million contract with Sapio or otherwise, a landfill biogas upgrading plant in Genova, Italy, is illustrative of the execution and delivery issues Xebec has experienced in Italy.

35.32. On March 12, 2019, Xebec announced that it had received an order for a landfill biogas upgrading plant in Italy valued at over $6 million. According to Xebec, the order was "to be delivered in late 2019," the whole as appears in **Exhibit P-30**.

35.33. On November 6, 2019, Xebec provided an update on this project, reporting that it was "in the final construction phase" of the project…. Scheduled completion date is end of 2019," the whole the whole as appears in **Exhibit P-31**.

35.34. However, Xebec's disclosures during 2020 revealed that the Genova, Italy, landfill biogas project had not been finished by the end of 2019, as scheduled and represented.

35.35. On March 16, 2020, Xebec provided an update that the Genova project, and a further project located in Sicily, Italy, continued to be under construction, the whole as appears in **Exhibit P-32.**

35.36. According to Respondent Sorschak, it seems that the two Italian projects were commissioned in or about August 2020, the whole as appears in **Exhibit P-33**, at page 3. A local Italian source seems to suggest that the Genova landfill biogas project was commissioned in January 2021, the whole as appears in **Exhibit P-34**.

35.37. As Xebec's management acknowledged at the end of the Class Period, the delays in the execution and delivery of the contracts had a direct, adverse impact on Xebec's revenue accounting under the percentage of completion methodology. It is as such indicative of revenue reversals, costs accruals or other adjustments that Xebec reported only $599,000 in revenue from Italy in 2020 (2019: $7,512,614), although it continued to work on two projects in Genova and Sicily, Italy, and commissioned those projects in second half of 2020.

B.2. $5.9 million purchase order in France for delivery in 2019

35.38. On November 29, 2018, Xebec announced that its French partner had won contracts for "multiple biogas upgrading Pressure Swing Adsorption (PSA) units to be delivered in 2019." Xebec stated that the value of the order was $5.9 million, the whole as appears in **Exhibit P-35**.

35.39. There is no follow-on disclosure regarding the fate of this order. Specifically, it is unclear whether Xebec delivered on this order in 2019 or ever at all.

35.40. However, for fiscal year 2020, Xebec reported *negative* $2,001,298 in revenue from France (2019: $4,375,266), which is indicative of revenue reversals, costs accruals or other adjustments following the initial recognition of revenue from France, as reflected in Xebec's Audited Financial Statements for FY 2020, the whole as appears in **Exhibit P-27**, at page 54.

35.41. Of note, Xebec's interim financial statements for Q2 2021 ceased reporting on France as a reportable business segment, the whole as appears in **Exhibit P-29**, at page 48.

B.3. $27 million order for United States dairy projects for delivery in 2020 and early-2021

35.42. On February 12, 2020, Xebec announced that it had received $24 million in orders from United States dairy farmers "for a total of six turnkey biogas upgrading plants

and small-scale containerized Biostream TM systems." According to Xebec, the projects were expected to be delivered "throughout 2020 and early 2021," the whole as appears in **Exhibit P-36**.

35.43. Xebec, in fact, failed to deliver any of the six projects in 2020. In its FY 2020 Annual Information Form, which was issued on March 31, 2021, Xebec reported that the first project under this order was delivered and installed in Q1 2021, the whole as appears in **Exhibit P-28**, at page 12.

35.44. While Xebec failed to provide any meaningful insight into the specifics of this order and the revenues recognized thereunder, Xebec's segmented revenue from the United States on a quarterly basis is as follows:

	Reported Revenues from United States
Q1 2020	$5,280,448
Q2 2020	$11,840,400
Q3 2020	$11,681,719
Q4 2020	($2,155,938) *

* Xebec reported total revenue of $26,646,629 from United States in FY 2020. The revenue indicated for Q4 2020 represents the total FY 2020 revenue deducted by the aggregate of the revenues reported for Q1 through Q3 2020.

the whole as appears in Xebec's interim financial statements for Q1 2020, **Exhibit P-37**, at page 25; Xebec's interim financial statements for Q2 2020, **Exhibit P-38**, at page 31; Xebec's interim financial statements for Q3 2020, **Exhibit P-1**, at page 38; and Xebec's audited annual financial statements for FY 2020, **Exhibit P-27**, at page 54.

35.45. It is indicative of revenue reversals, cost accruals or other adjustments that for Q4 2020, Xebec reported *negative* $2,155,938 in revenue from the United States.

C. Xebec's Execution and Delivery Issues Increased Projects' Costs, Reduced Margins and Negatively Impacted Revenue

35.46. As a direct result of Xebec's execution and delivery issues on its "long-term, production-type contracts", the costs of the projects grew larger than estimated, therefore Xebec's revenue accounting on the basis of the percentage of completion method was adversely effected. As a result, Xebec's financial disclosures during

the Class Period misstated the company's revenue and contained misrepresentations.

35.47. At the Q3 2020 earnings call held on November 11, 2020, Xebec's former Chief Operating Officer Prabhu Rao acknowledged the negative impact of the "higher installation costs and associated delays, the whole as appears in **Exhibit P-21**, at page 11.

35.48. During the same November 11, 2020 earnings call, Rao provided further insight into these circumstances in an exchange with David Quezada, an equity analyst with Raymond James, reporting that Xebec had experienced increased project costs at both manufacturing and delivery, the whole as appears in **Exhibit P-21**, at pages 20-21.

35.49. At the announcement of Xebec's Q3 2020 results on November 10, 2020, Xebec revised the 2020 revenue forecast from $80-$90 million to $70-$80 million, a further indication that Xebec had recognized the negative impact of the operational shortcomings on its revenue practices and financial reporting, the whole as appears in **Exhibit P-39**.

35.50. At all material times relevant to this action, Xebec elected to recognize revenue on the "long-term, production-type contracts" on the basis of the percentage of completion revenue accounting. This revenue recognition method is beneficial to Xebec, as it allows that Xebec recognize and report revenues over time, before the product has been delivered to customers.

35.51. The percentage of completion revenue accounting calculates the revenue based on the cost incurred relative to the total expected cost of the contract. The proper utilization of this revenue accounting method requires proper, effective and reliable processes and control systems, such that the projects' costs and progress can be properly and reliably measured.

35.52. In breach of the Respondents' duties to provide reliable and timely disclosures, Xebec's Impugned Documents continued to include overstated revenue and provided FY 2020 revenue forecast of $70 to $80 million, which was a misrepresentation.

D. The Corrective Disclosures

D.1. March 12, 2021

36. Before the market opened on March 12, 2021, Xebec issued a press release titled "Xebec Provides Updated 2020 Guidance," which is communicated herewith as **Exhibit P-11**.

37. In this press release, Xebec reported that its revenue for FY 2020, which are scheduled for release on March 25, 2021, would be approximately $57 million.

This would be materially lower than Xebec's FY 2020 revenue guidance of $70 million to $80 million, which Xebec had provided on November 10, 2020.

38. Xebec attributed the significant revenue shortfall to three specific items, each of which impacted Xebec's previously-recognized revenue. Namely, revenue improperly recognized and reported by Xebec in prior reporting periods, including in Q3 2020, which were released, and reported on November 10, 2020. Those three specific items are as follows.

39. *First*, Xebec admitted to the improper application of the "percentage of completion" revenue accounting method, which resulted in a negative impact of $5.6 million. According to Xebec:

> Xebec underwent a detailed review of its fixed price contracts for renewable natural gas (RNG) projects, where revenues are recognized based on the percentage of completion method. As a result of its review, Xebec determined that:
>
> i. Previously incurred expenses represented a lower percentage of total costs than previously estimated, and previously recognized revenue is required to be adjusted to reflect the revised percentage of completion for contracts that remain profitable under Xebec's updated estimates.
>
> ii. Some of the contacts previously estimated to be profitable are now projected to result in losses. The percentage of completion method requires that the losses on such contracts be recognized immediately,

the whole as appears in **Exhibit P-11**.

40. *Second*, reversal of revenues on two sales that were cancelled, representing a further negative impact of $5.4 million. According to Xebec:

> [The further negative revenue impact was due to the] [c]ancellation of the sale of two systems for which approximately 50% of the revenue was already recognized based on the percentage of completion method,

the whole as appears in **Exhibit P-11**.

41. *Third*, reversal of revenue as a result of a credit loss, representing a further negative impact of $1.9 million. According to Xebec:

> [The further negative revenue impact was due to the] [r]eversal of revenue previously recognized based on the percentage of completion method due to the deteriorating financial position of a client where collection for payment became uncertain,

the whole as appears in **Exhibit P-11**.

42. The foregoing disclosures revealed that Xebec had improperly applied the "percentage of completion" revenue accounting method and, consequently, it had improperly recognized revenues before it was probable that the economic value of the contract would flow to Xebec.

43. As a result, Xebec had to reverse previously recognized revenues, representing in the aggregate a negative impact on the full FY 2020 revenue of $12.9 million, or approximately 24% of its full FY 2020 revenue of $57 million.

44. Upon this disclosure, the price of Xebec's common shares on the TSX plummeted from $7.94 as of the close of trading on March 11, 2021 to $5.46 on March 12, 2021 (or, by 31%) on extraordinarily heavy trading volume, the whole as appears in **Exhibit P-50**.

D.2. March 25, 2021

44.1. Before the market's open on March 25, 2021, Xebec issued and filed on SEDAR its Q4 and FY 2020 disclosures and financial statements, reporting negative revenue from its reportable Cleantech Systems Segment and negative gross margins, as seen below:

	Q4 2020	FY 2020
Revenue from Cleantech Systems Segment	($4.1)	$28.1
Revenue from Industrial Services and Support	$10.4	$28.4
Revenue Total	$6.4	$56.5
Costs of Goods Sold	$17.8	$56.3
Gross Margin	($11.4)	$0.3
Gross Margin as a Percentage	180%	0.5%
Net Income (Loss)	($28.3)	($32.0)
Earnings (Loss) Per Share	(0.26)	($0.33)

(in millions of Canadian dollars, except percentages and per share data), the whole as appears in Xebec's FY 2020 MD&A, **Exhibit P-40**, at page 17.

44.2. Xebec's FY 2020 MD&A provided further details regarding the revenue reversals during Q4 2020 as Xebec determined that it had not correctly calculated the revenue based on the percentage of completion method:

> ***Revenues*** decreased by $7.2 million to $6.4 million for the three-month period ended December 31, 2020, compared to $13.6 million for the same period the prior year. The decrease is mainly due to revenue adjustments in the last quarter due to extraordinary items in the Cleantech Systems business segment resulting from the impact of the COVID-19 pandemic and other operational issues, which substantially increased product, operational and installation costs. With the impact of COVID-19 lasting longer than expected and additional restrictions being re-imposed by local authorities in Q4/20, Xebec undertook a detailed accounting review of its long-term, production-type contracts for its renewable natural gas projects where revenues are recognized based on the percentage of completion method. As a result of the projected total cost of fulfilling these contracts having increased substantially, Xebec determined that previously incurred expenses represent a lower percentage of total costs than previously estimated. As such, revenues recognized to date had to be adjusted ($5.2 million) to reflect the revised percentage of completion for contracts under Xebec's updated estimates. Furthermore, Xebec reversed revenues ($1.9 million) previously recognized based on the percentage of completion method due to the deteriorating financial position of a client where the likelihood of payment became uncertain in early 2021. Finally, two contracts that had become unprofitable were cancelled by a customer in early 2021 as a result of the delivery delays, due to COVID-19 and other related disruptions. This impact led to a $5.4 million revenue adjustment. The parts and materials used for these contracts have since been inventoried and are expected to be used for future contracts,

the whole as appears in **Exhibit P-40**, at pages 17-18.

44.3. During the earnings call for FY 2020 held on March 25, 2021, Respondent Sorschak noted that but for the revenue reversals incurred during Q4, Xebec's "revenue for the quarter would have been approximately $20.7 million," the whole as appears in **Exhibit P-41**, at page 6. This revealed that the revenue reversals incurred during the quarter were in fact not $12.9 million (as Xebec had stated in the March 12, 2021 press release), but approximately $14.3 million ($20.7 million - $6.4 million) or approximately 11% greater than Xebec had initially represented.

44.4. Furthermore, during the March 25, 2021 earnings call, Respondent Sorschak stated that the revenue issues would continue to have a negative impact on Xebec's financial statements in Q1 and Q2 of 2021, as Xebec continued to "work[] through the order backlog that caused the problem," the whole as appears in **Exhibit P-41**, at page 3.

44.5. Upon Xebec's March 25, 2021 disclosures, the price of its common shares fell to $4.0 during intraday trading, representing $0.62 (or 13%) decline compared to the close of trading on March 24, 2021. Xebec's common shares closed at $4.38 on March 25, 2021, and continued to decline over the following trading days, the whole as appears in **Exhibit P-50**.

D.3. Recent Updates

44.6. In conjunction with the release of its Q2 2021 financial results, Xebec further acknowledged the problems with its "legacy production type RNG contracts," the whole as appears in **Exhibit P-42**.

44.7. Furthermore, Xebec's Q2 2021 MD&A acknowledged that the revenue issues were due to cancellation of certain projects in Q4 2020, the whole as appears in **Exhibit P-43**, at page 21. During an earnings call held on August 12, 2021, Respondent Sorschak similarly acknowledged that the contract issues had arisen in Q4 2020, the whole as appears in **Exhibit P-23**, at page 4.

44.8. Xebec's Q2 2021 MD&A, furthermore, confirmed that its long-term, production type contracts were "less predictable" and "experienced cost overruns," the whole as appears in **Exhibit P-43**, at page 32.

44.9. Xebec's Q2 2021 disclosures also confirmed that the contract issues were negatively impacting the company's margins and revenue, and accordingly revised its adjusted EBITDA margin forecast from 3% to 4% to negative 3% to negative 4%, the whole as appears in **Exhibit P-43**, at page 34.

44.10. Upon Xebec's August 12, 2021 announcements, its stock price plummeted from $3.75 at the close of trading on August 11, 2021 to $3.43 at the close of trading on August 12, 2021, and continued to decline to reach a low of $2.85 on August 17, 2021, the whole as appears in **Exhibit P-50**.

44.11. In its Q2 2021 MD&A, Xebec reported on the status of its internal controls and for the first time since its up-listing to the TSX in January 2021. In the MD&A's report on the internal controls, Xebec excluded certain entities (representing 64% of Xebec's combined revenue for the six months ended June 30, 2021) from the scope of its design of the internal controls. The report states that management evaluated the internal controls on the basis of this limited scope and concluded that the internal controls were designed properly. However, the report fails to state that management concluded that the internal controls were also effective, the whole as appears in **Exhibit P-43**, at pages 40-42.

44.12. The substantial limitation of the scope of the design of the internal controls, and the fact that nonetheless Xebec's management did not conclude that the internal controls were effective, constitute a further indication that Xebec failed to maintain internal controls necessary to enable the preparation of reliable financial statements that were free from material misstatements.

VII. THE MISREPRESENTATIONS

A. Q3 2020 Interim Financial Statements and MD&A

45. The Q3 2020 Interim Financial Statements and MD&As included representations regarding Xebec's application of the "percentage of completion" revenue accounting method substantially as those outlined above, the whole as appears in **Exhibit P-1**, at pages 4-5.

46. However, contrary to those representations:

   a. Xebec failed to properly apply the "percentage of completion" revenue accounting method;

   b. Xebec failed to properly recognize revenue based on appropriate costs incurred as of the date of the reporting of the financial statements in relation to the total costs of the contract meaning that, it overestimated the percentage of completion of the project and, thereby, it overstated and inflated the associated revenue from those projects;

   c. Xebec improperly recognized inflated revenue on the basis of the "percentage of completion" revenue accounting method before delivery had occurred or title or risk had passed to the customer, requiring Xebec to reverse the revenue that was previously recognized when the contract was cancelled; and

   d. in the circumstances, Xebec recognized revenues before it was probable that the economic value of the contract would flow to it, contrary to its stated significant accounting policies.

47. Accordingly, the representations regarding Xebec's application of the "percentage of completion" revenue accounting method, and the assurances provided to investors that Xebec's management diligently apply it, were misrepresentations.

48. Furthermore, Xebec's financial statements contained misrepresentations in that they improperly recorded revenue that ought not to have been recognized under Xebec's relevant accounting policies. Xebec's Q3 2020 Interim Financial Statements and MD&A reported revenues of approximately $18.39 million for Q3 2020 and $50.17 for Q1 through Q3 of 2020.

49. These figures included revenues that Xebec subsequently was required to reverse as a result of its misapplication of the "percentage of completion" revenue accounting, as Xebec reported on March 12, 2021. Accordingly, the revenue was overstated, constituting a misrepresentation.

49.1. Xebec's Q3 2020 disclosures contained the FY 2020 revenue forecast of $70 to $80 million, which constituted a misrepresentation within the meaning of the *QSA*.

49.2. The revenue forecast of $70 to $80 million was provided to the market on November 10, 2020, and it was included in the Prospectus dated December 21, 2020, days before the conclusion of the fiscal year. The revenue forecast of $70 to $80 million purported to derive from Xebec's revenues up to and including December 2020, and it accordingly did not constitute forward-looking information.

49.3. Alternatively, to the extent that the revenue forecast of $70 to $80 million was forward-looking information, it constituted "forward-looking information in a financial statement required to be filed under [the *QSA*] or the regulations or in a document released in connection with an initial public offering]", therefore the provisions of section 225.0.1 of the *QSA* do not apply.

49.4. In the further alternative, the revenue forecast of $70 to $80 million lacked a reasonable basis when made, therefore it constituted a misrepresentation.

50. (…).

51. (…).

52. (…).

53. In relation to Xebec's Interim Financial Statements and MD&A for Q3 2020, which are Impugned Documents, Sorschak and Dufour issued Certifications of Interim Filings on Form 52-109FV2 dated November 10, 2020, attesting to the veracity of those disclosure documents, as follows:

> ***No misrepresentations:*** Based on my knowledge, having exercised reasonable diligence, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings.
>
> ***Fair presentation:*** Based on my knowledge, having exercised reasonable diligence, the interim financial report together with the other financial information included in the interim filings fairly present in all material respects the financial condition, financial performance and cash flows of the issuer, as of the date of and for the periods presented in the interim filings;

the whole as appears in **Exhibits P-48** and **P-49**.

54. As elaborated herein, Xebec's Q3 2020 interim filings contained misrepresentations and its Interim Financial Statements failed to fairly present the financial condition and financial performance of Xebec. Sorschak's and Dufour's certifications of Xebec's Q3 2020 Interim Financial Statements and MD&A were false, and they constituted misrepresentations.

B. The Prospectus

55. The Prospectus incorporated by reference the Interim Financial Statements and MD&A for Q3 2020. It accordingly contained all the misrepresentations alleged herein to have been contained in those documents.

56. Furthermore, the Prospectus incorporated by reference the audited annual financial statements of Xebec for fiscal year 2019, which is communicated herewith as **Exhibit P-10**.

57. The audited financial statements for fiscal year 2019 represented that management of Xebec had established such ICFR as "management determines is necessary to enable the preparation of consolidated financial statements that are free from material misstatement, whether due to fraud or error," the whole as appears in **Exhibit P-10**, in the report of the Independent Auditors of Xebec, Raymond Chabot Grant Thornton LLP to the shareholders.

58. That representation was a misrepresentation, as Xebec did not have effective ICFR regarding the proper application of the "percentage of completion" revenue accounting and/or proper accounting for expected credit losses.

58.1. Furthermore, the fact that Xebec failed to maintain proper internal controls necessary to enable its preparation and presentation of reliable financial disclosures constituted a material fact that the Prospectus ought to have disclosed.

59. Furthermore, the Prospectus contained a Certificate of the Corporation executed by Sorschak, Archambault, Beckett and Saint-Jacques, dated December 21, 2020, which stated as follows:

> This short form prospectus, together with the documents incorporated by reference, constitutes full, true and plain disclosure of all material facts relating to the securities offered by this short form prospectus as required by the securities legislation of each of the provinces of Canada.

60. The Prospectus also contained a Certificate of Underwriters executed by each of the Underwriters, dated December 21, 2020, which stated as follows:

> To the best of our knowledge, information and belief, this short form prospectus, together with the documents incorporated by reference, constitutes full, true and plain disclosure of all material facts relating to the securities offered by this short form prospectus as required by the securities legislation of each of the provinces of Canada.

61. As a result of the misrepresentations contained in the Prospectus, the Certificate of the Corporation dated December 21, 2020 as well as the Certificate of the

Underwriters dated December 21, 2020, were false, and they constituted misrepresentations.

C. The March 12, 2021 News Release and Its Corresponding March 23, 2021 Material Change Report

61.1. Even though Xebec's March 12, 2021 news release and its corresponding material change report filed on March 23, 2021, partially corrected the misrepresentations alleged herein, they continued to contain two misrepresentations.

61.2. First, these disclosure documents of Xebec understated the amount of revenue reversals by at least approximately $1.4 million (or approximately 11%). Xebec continued to address the revenue issues arising out the problems with its "legacy, production type RNG contracts," which continued to negatively impact its financial disclosures as of Q1 and Q2 2021.

61.3. Second, these disclosure documents of Xebec stated that the revenue reversals constituted "extraordinary items," which was reasonably understood to mean that they were one-time, non-recurring charges. This was a misrepresentation. As Xebec's management revealed at the end of the Class Period, the problems with its "legacy, production type RNG contracts" continued to negatively impact Xebec's financial results in Q1 and Q2 2021.

VIII. THE RESPONDENTS' DUTIES, WHICH THEY VIOLATED

A. Duties Applicable to Xebec and the Individual Respondents, Which They Violated

62. At all material times, the Individual Respondents were directors and officers of Xebec. As such, pursuant to section 122 of the *CBCA*, the Individual Respondents each had duties to:

    a. act honestly and in good faith with a view to the best interests of the corporation; and

    b. exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

63. Furthermore, as members of Xebec's board of directors' Audit Committee, William Beckett and Guy Saint-Jacques had duties pursuant to Xebec's Audit Committee Charter to:

    a. monitor Xebec's accounting and financial reporting practices and procedures;

b. ensure the adequacy of Xebec's internal accounting controls and procedures; and

c. ensure the quality and integrity of Xebec's financial statements and other financial information provided by Xebec to shareholders;

the whole as appears in **Exhibit P-12**

64. Furthermore, as members of Xebec's board of directors' Governance Committee, Kurt Sorschak and William Beckett had duties pursuant to Xebec's Governance Committee Charter to enhance Xebec's implementation of sound governance practices and compliance with applicable laws, including securities laws, the whole as appears in **Exhibit P-13**.

65. Furthermore, as directors and officers of Xebec, the Individual Respondents had duties pursuant to Xebec's Statement of General Principles and Code of Ethics to conduct business in accordance with the highest level of ethical conduct and standards, which the Code of Ethics recognized as being "extremely important to the success of our Company," the whole as appears in **Exhibit P-14.**

66. Furthermore, Xebec and the Individual Respondents had responsibilities to properly communicate the material information regarding Xebec's business, its financial position and its financial performance, pursuant to the *QSA* and its subsidiary instruments, including National Instrument 51-102 (*Continues Disclosure Obligations*), National Instrument 52-109 (*Certification of Disclosure in Issuers' Annual and Interim Filings*), National Instrument 41-101 (*General Prospectus Requirements*) and National Instrument 45-106 (*Prospectus Exemptions*).

67. By failing to ensure that Xebec took proper care to ensure that its financial statements were free of misrepresentations, as set out above, Xebec and the Individual Respondents violated the duties applicable to them.

B. Duties Applicable to the Underwriters, Which They Violated

68. As the Underwriters and bookrunners acting under contract in relation to the Offering, the Underwriters had duties to act diligently and exercise such care and diligence as reasonably required to ensure that the Prospectus contained full, true and plain disclosure of the material information concerning Xebec and its financial position and its financial performance.

69. The Underwriters were on notice of the heightened risk of misrepresentation, and they were required to exercise proper diligence in light of Xebec's rapid growth, the significant increase in its year-over-year revenue and accounts receivable, and the abrupt resignation of its Chief Financial Officer Louis Dufour on November 10, 2020.

70. Of note, the abrupt resignation of Chief Financial Officer Louis Dufour occurred shortly before the highly critical audit season, in the course of Xebec's negotiation of the transformative acquisition of HyGear and shortly before the company's significant equity raise of over $150 million in December 2020. These circumstances taken together would have or should have raised red flags and concern about the timing of the sudden resignation of Chief Financial Officer of Xebec, a nearly-billion-dollar market cap public issuer.

71. These circumstances constituted "red flags" suggesting a heightened risk of error or fraud, and they should have prompted the Underwriters to exercise a heightened professional skepticism and properly scrutinize Xebec's governance environment and its financial reporting practices.

72. Had the Underwriters exercised the due diligence required from them in all of these specific circumstances, they would have discovered that Xebec's ICFR were not effective in ensuring proper application of the "percentage of completion" revenue accounting, and/or that Xebec's revenue was accordingly not properly recognized or reported.

73. The duty of care of the Underwriters is informed by the QSA and its subsidiary instruments, including National Instrument 51-102 (*Continues Disclosure Obligations*), National Instrument 41-101 (*General Prospectus Requirements*) and National Instrument 45-106 (*Prospectus Exemptions*) and the policies and forms promulgated thereunder, the professional rules and standards applicable to underwriters in public offerings including the rules and guidelines established by the Investment Industry Regulatory Organization of Canada, the underwriting agreement between the Underwriters' and Xebec, and the Underwriters' internal policies.

74. By failing to exercise reasonable care and diligence to ensure that the Prospectus constituted full, plain and true disclosure of material facts, and that it did not contain misrepresentations, the Underwriters violated the duties applicable to them.

IX. THE CLASS'S DAMAGES

75. At all material times, common shares of Xebec traded in efficient markets that incorporated the publicly available information about Xebec, including the information regarding its financial position and its financial performance, into the price of its securities.

76. The Respondents knew and intended that the market price or value of common shares of Xebec would reflect the information that they communicated to the market, including the misrepresentations alleged herein.

77. The Applicants and the Class suffered damages and losses a result of the Respondents' misrepresentations and their improper conduct alleged herein, as

they purchased or acquired the securities of Xebec at artificially inflated prices that as a result of the Respondents' misrepresentations and improper conduct alleged herein.

X. THE RIGHTS OF ACTION

A. Statutory Claim for Misrepresentation in the Primary Market

78. On behalf of all Class Members who purchased or acquired the securities of Xebec in the Offering, the Applicants plead and assert the statutory right of action prescribed in sections 218 and 221 of the *QSA* and, if necessary, the concordant provisions of the Equivalent Securities Acts.

79. This claim is being asserted in relation to the misrepresentations contained in the Prospectus, as particularized herein.

80. This claim is asserted against:

    a. Xebec, which is the issuer;

    b. Kurt Sorschak, Stéphane Archambault, William Beckett and Guy Saint-Jacques, who were the directors and officers of Xebec who signed the Prospectus; and

    c. each of the Underwriters, who were the dealers under contract to Xebec in relation to the issuance and distribution of Xebec's securities in the Offering.

B. Statutory Claim for Misrepresentation in the Secondary Market

81. On their own behalf and on behalf of the other Class Members who purchased or acquired the securities of Xebec in the secondary market or pursuant to the acquisition of HyGear, the Applicants plead and assert the statutory right of action prescribed in section 225.8 of the *QSA* and, if necessary, the concordant provisions of the Equivalent Securities Acts.

82. This claim is being asserted in relation to the misrepresentations contained in each of the Impugned Documents.

83. This claim is being asserted against:

    a. Xebec, which is the issuer;

    b. Kurt Sorschak, William Beckett and Guy Saint-Jacques, who were directors of Xebec at the time of the release of each of the Impugned Documents;

c. Louis Dufour, who was an officer of Xebec at the time of the release of the Q3 2020 Interim Financial Statements and MD&A, as he authorized the release of those documents; and

d. Stéphane Archambault, who was an officer of Xebec at the time of the release of the Prospectus, as well as Xebec's March 12, 2021 news release and its corresponding material change report issued on March 23, 2021, as he authorized the release of those Impugned Documents.

83.1. As for the March 12, 2021 news release, which is an Impugned Document, these Respondents:

a. knew, at the time that the document was released, that the document contained a misrepresentation or deliberately avoided acquiring such knowledge at or before that time; or

b. were guilty of a gross fault in connection with the release of the document.

84. The Applicants hereby seek the authorization of the Court to bring this claim.

85. The projected statement of claim is communicated herewith as **Exhibit P-15A**.

C. Article 1457 of the *C.C.Q.*

86. On behalf of themselves and all Class Members, the Applicants assert a civil right of action under art. 1457 *C.C.Q.* for breaches of their general duty of diligence owed to all Class Members.

87. The Respondents owed duties to the Applicant and the Class, which they violated, as a result of which the Impugned Documents were released while they contained misrepresentations. The Applicants and the other Class Members suffered damages and losses when those misrepresentations were corrected.

88. The Respondents' violations of their duty of diligence are particularized herein.

89. By authorizing, permitting and acquiescing to the publication and dissemination of false and misleading information by way of press releases and public statements, the Respondents did not fulfill the legal obligations.

90. The accuracy of the information set out in Xebec's financial statements in the Class Period underpinned the Class's dealing with Xebec's securities in the Class Period.

91. The Respondents committed a fault which caused significant monetary damages to the Class Members. The Respondents are solidarily liable to the Class Members.

92. The Respondents' faults, wilful acts and breaches of the Respondents' duties and applicable laws and regulations were committed in Québec.

93. Furthermore, pursuant to art. 1463 *C.C.Q.*, Xebec is vicariously liable for the faults committed by the Individual Respondents or any other officer, director, agent or employee of Xebec.

94. As alleged herein, each of the Respondents committed a fault by allowing the publication of documents and dissemination of public statements which they knew or ought to have known contained misrepresentations of material facts. In doing so, the Individual Respondents breached the duty of diligence applicable to them under art. 1457 *C.C.Q.*, as particularized herein.

95. In exchange for their work as the Company's management, the Individual Respondents received compensation by way of salaries and other consideration from Xebec.

96. While performing their duties, the Individual Respondents were legally under the direction and control of Xebec.

97. Xebec benefited directly from their misrepresentations and failure to make timely disclosure of material changes as it artificially inflated Xebec's stock price.

98. In view of the foregoing, Xebec is solidarily liable towards the Class Members for the faults committed by the Individual Respondents in the performance of their duties.

D. Oppression Remedy

99. On behalf of themselves and the other Class Members, the Applicants plead the oppression remedy pursuant to section 241 of the *CBCA*. This claim is being asserted against Xebec and the Individual Respondents.

100. The Applicants and the other Class Members are complainants for the purposes of section 241 of the *CBCA*.

101. The Applicant and the other Class Members had reasonable expectations that Xebec and the Individual Respondents comply with the duties applicable to them at law and by way of Xebec's constituting instruments and board charters.

102. These Respondents violated the Applicants' and the Class Members' reasonable expectations. As a result:

    a. the act or omissions of Xebec and the Individual Respondents effected a result;

    b. the business or affairs of Xebec or were carried on or conducted in a manner; or

    c. the powers of the directors of Xebec were exercised in a manner,

that was oppressive or unfairly prejudicial to, or that unfairly disregards the interests of the Applicant and the other Class Members.

103. The Applicants and the Class plead that they are entitled to relief under section 241(3) of the *CBCA* to offset the effect of the oppressive conduct, including compensation for the damages and losses on their investments in the company's common shares pursuant to subsection 241(3)(j).

XI. THE CRITERIA OF ARTICLE 575 *C.C.P.*

A. The facts alleged appear to justify the conclusions sought

104. The Applicants allege that the Impugned Documents contained misrepresentations within the meaning of the *QSA*, and that the Respondents engaged in improper and oppressive conduct in violation of their duties at law and under Xebec's constituting corporate documents.

105. Specifically, as Xebec disclosed by way of its press release dated March 12, 2021, it had improperly applied the "percentage of completion" revenue accounting method and, as a result, it recognized revenues that had to be reversed when this error was discovered.

106. Xebec's March 12, 2021 disclosure furthermore revealed that, at the relevant time, Xebec did not have proper ICFR to ensure that the "percentage of completion" method was properly applied, Xebec's financial results were properly reported, and that they were free of errors and misstatements.

106.1. Subsequently, on March 25, 2021, Xebec disclosed that the revenue reversals were greater than $12.9 million, and that the negative impact would continue through Q1 and Q2 2021 as Xebec continued to work through the order backlog that had caused the problem.

106.2. On August 12, 2021, Xebec furthermore acknowledged the negative impact of its "legacy, production-type RNG contracts", also disclosing that it had experienced project cancellations in Q4 2020.

106.3. On these disclosures, the market price of Xebec's shares declined to as low as $2.85 per share, compared to a high of $11.20 on January 18, 2021.

107. The Applicants and the other Class Members suffered damages and losses on their investments in Xebec's securities as a result of the Respondents' misrepresentations and their improper conduct.

108. These circumstances give rise to the following rights of action:

a. Statutory right of action for damages for misrepresentation in primary market pursuant to sections 218 and 221 of the *QSA* and, if necessary, the concordant provisions of the Equivalent Securities Acts;

b. Statutory right of action for damages for misrepresentation in secondary market pursuant to section 225.8 of the *QSA* and, if necessary, the concordant provisions of the Equivalent Securities Acts;

c. Article 1457 of the *C.C.Q.*; and

d. Section 241 of the *CBCA*.

109. The foregoing claims and rights of action are well-founded in fact and in law.

110. In light of the above, and as detailed herein, the faults committed by the Respondents support the Applicant's and Class Members' claims.

B. The claims of the Class Members raise identical, similar or related issues of fact or law

111. In the context of the facts and the law pleaded herein, the principal issues of fact and law to be dealt with collectively are as follows:

a. Did the Impugned Documents, or any of them, contain one or more misrepresentations? If so, what Impugned Documents contained what misrepresentations?

b. If the answer to (a) is yes, are any of the Respondents liable pursuant to sections 218 and/or 221 of the *QSA* and, if necessary, the concordant provisions of the Equivalent Securities Acts? If so, which Respondent is liable and to whom?

c. If the answer to (a) is yes, are any of the Respondents liable pursuant to section 225.8 of the *QSA* and, if necessary, the concordant provisions of the Equivalent Securities Acts? If so, which Respondent is liable and to whom?

d. Are any of the Respondents liable under article 1457 of the *C.C.Q.*? If so, which Respondent is liable and to whom?

e. Are any of the Respondents liable to pay compensation pursuant to the oppression remedy prescribed in section 241 of the *CBCA*? If so, which Respondent should pay compensation, and to whom?

f. If the answer to any of (b), (c), (d) and/or (e) is yes, what is the appropriate measure of the damages?

g. Are any directions of the Court necessary in order to determine individual issues, if any, or to administer the notice or a judgment to the Class? If so, what are those directions?

112. The majority of the issues to be dealt with are issues common to every Class member.

113. The interests of justice favor that this Application be granted in accordance with its conclusions.

114. Consequently, the Applicants respectfully request that this Honourable Court authorize the conclusions sought by the class action as being the following:

> **GRANT** this class action on behalf of the Applicants and the Class;
>
> **GRANT** the Applicants' and the Class' statutory claim for damages under sections 218 and/or 221 of the *QSA* and, if necessary, the concordant provisions of the Equivalent Securities Acts;
>
> **GRANT** the Applicants' and the Class' statutory claim for damages under section 225.8 of the *QSA* and, if necessary, the concordant provisions of the Equivalent Securities Acts;
>
> **GRANT** the Applicants' and the Class' claim for damages under article 1457 of the *C.C.Q.*;
>
> **GRANT** the Applicants' and the Class' claim for compensation pursuant to section 241 of the *CBCA*;
>
> **CONDEMN** the Respondents to solidarily pay to the Applicants and the Class compensatory damages for all monetary losses;
>
> **ORDER** collective recovery in accordance with articles 595 to 598 of the *C.C.P.*;
>
> **THE WHOLE** with interest and additional indemnity provided for in the *C.C.Q.* and with full costs and expenses, including expert fees, notice fees and fees relating to administering the plan of distribution of the recovery in this action.

C. The composition of the group makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings

115. Xebec is a publicly-traded company and it has numerous investors. Accordingly, there are many Class Members. In this context, it would be impracticable for each Class Member to bring a separate action.

116. There are thousands of investors that could be members of the putative Class and that are likely located throughout the world.

117. In this context, it would be impracticable for each member of the Class to bring a separate action.

D. The Applicants are in a position to properly represent the Class Members

118. The Applicant (…) Leclair (…) purchased the securities of Xebec during the Class Period, and held (…) those shares as of March 24, 2021. He (…) incurred losses and damages on his (…) investments in Xebec securities as a result of the Respondents' misrepresentations and misconduct alleged herein.

118.1. (…).

118.2. Mr. Maurice Leclair is a retail investor residing in Québec. He purchased 2,000 shares of Xebec on March 4, 2021, shortly before Xebec disclosed the operational and revenue issues on its long-term contracts. Mr. Leclair paid $6.98 per share, exclusive of commissions, and he has incurred damages on his investment in Xebec's securities. It is respectfully submitted that Mr. Leclair is cognizant of his duties as a proposed class representative, is willing and able to fulfill those duties, and does not have a conflict of interests with the other Class Members.

118.3. (…).

118.4. Mr. Evert Schuringa is a retail investor residing in the Netherlands. Mr. Schuringa is a former shareholder of HyGear, which was acquired by Xebec in December 2020. Mr. Schuringa acquired approximately 18,416 shares of Xebec at a deemed price of $6.03 per share in exchange for his HyGear shares. Mr. Schuringa has incurred damages on his investment in Xebec's securities, and he is in a position to represent the class members who acquired Xebec shares in connection with the acquisition of HyGear. It is respectfully submitted that Mr. Schuringa is cognizant of his duties as a proposed class representative, is willing and able to fulfill those duties, and does not have a conflict of interests with the other Class Members.

119. The Applicants understand the requirements of time and dedication required of his role and is prepared to devote the required resources to carry forward this proposed class action on behalf of the Class.

120. The Applicants have the resources, knowledge, time and dedication required to act as the Class Representative and to advance the case on behalf of the Class.

121. The Applicants purchased or acquired Xebec's securities during the Class Period, held them until after the Corrective Disclosures, and suffered a financial loss.

122. The Applicants have no conflict of interest with other Class Members.

123. The Applicants have given the mandate to the undersigned attorneys to post the present matter on their firm website in order to keep the Class members informed of the progress of these proceedings and in order to more easily be contacted or consulted by said Class Members.

124. The Applicants have brought this action in good faith, in order to recover the losses and damages he and the other Class Members have suffered as a result of the Respondents' misrepresentations and their improper conduct alleged herein.

125. The Applicants have also brought this action in order to hold the Respondents accountable for their conduct, and to deter others from engaging in violations of securities laws.

126. The Applicants are able and willing to properly represent the Class.

127. The present Application is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present Application;

AUTHORIZE the institution of this class action in the form of an originating application on behalf of the Class defined as follows:

> all persons and entities, wherever they may reside or may be domiciled, who purchased or otherwise acquired Xebec's securities during the Class Period, and held some or all of such securities as of the close of trading on the TSX on March 11, 2021 or March 24, 2021;
>
> "Class Period" means the period from November 10, 2020 to March 24, 2021, both dates inclusive;

APPOINT the Applicants (...) Maurice Leclair (…) and Evert Schuringa as the Class Representatives representing the Class as described herein;

IDENTIFY the principal issues of law and fact to be treated collectively and **DECLARE** that the following questions of fact and law shall be dealt with collectively in this class action:

a. Did the Impugned Documents, or any of them, contain one or more misrepresentations? If so, what Impugned Documents contained what misrepresentations?

b. If the answer to (a) is yes, are any of the Respondents liable pursuant to sections 218 and/or 221 of the *QSA* and, if necessary, the concordant provisions of the Equivalent Securities Acts? If so, which Respondent is liable and to whom?

c. If the answer to (a) is yes, are any of the Respondents liable pursuant to section 225.8 of the *QSA* and, if necessary, the concordant provisions of the Equivalent Securities Acts? If so, which Respondent is liable and to whom?

d. Are any of the Respondents liable under article 1457 of the *C.C.Q.*? If so, which Respondent is liable and to whom?

e. Are any of the Respondents liable to pay compensation pursuant to the oppression remedy prescribed in section 241 of the *CBCA*? If so, which Respondent should pay compensation, and to whom?

f. If the answer to any of (b), (c), (d) and/or (e) is yes, what is the appropriate measure of the damages?

g. Are any directions of the Court necessary in order to determine individual issues, if any, or to administer the notice or a judgment to the Class? If so, what are those directions?

IDENTIFY the conclusions sought by the action to be instituted as being the following:

> **GRANT** this class action on behalf of the Applicants and the Class;
>
> **GRANT** the Applicants' and the Class' statutory claim for damages under sections 218 and/or 221 of the *QSA* and, if necessary, the concordant provisions of the Equivalent Securities Acts;
>
> **GRANT** the Applicants' and the Class' statutory claim for damages under section 225.8 of the *QSA* and, if necessary, the concordant provisions of the Equivalent Securities Acts;
>
> **GRANT** the Applicants' and the Class' claim for damages under article 1457 *C.C.Q.*;
>
> **GRANT** the Applicants' and the Class' claim for compensation pursuant to section 241 of the *CBCA*;
>
> **CONDEMN** the Respondents to solidarily pay to the Applicants and the Class compensatory damages for all monetary losses;
>
> **ORDER** collective recovery in accordance with articles 595 to 598 of the *C.C.P.*;
>
> **THE WHOLE** with interest and additional indemnity provided for in the *C.C.Q.* and with full costs and expenses, including expert fees, notice fees and fees relating to administering the plan of distribution of the recovery in this action;

APPROVE the notice to the Class in the form to be submitted to the Court;

ORDER the publication of the notice to the members of the Class no later than sixty (60) days after the date of the Judgment authorizing the class proceedings in accordance with Article 579 *CCP*;

ORDER that the deadline for a member of the Class to exclude themselves from the Class action proceedings shall be sixty (60) days from the publication of the notice to the Class members;

DECLARE that all Class members who have not requested their exclusion from the Class in the prescribed delay to be bound by any Judgment to be rendered on the class action to be instituted;

THE WHOLE WITH COSTS including experts' fees and all costs related to the publication of the notices to Class Members and the *timbre judiciaire*.

MONTRÉAL, (...) May 13, 2022

(s) Lex Group Inc.

Lex Group Inc.
Per: David Assor
Attorneys for the Applicants

-and-

TORONTO, (...) May 13, 2022

(s) KND Complex Litigation

KND Complex Litigation
Per: Eli Karp & Sage Nematollahi
1186 Eglinton Ave West
Toronto (Ontario)
M6C 2E3
Telephone: (416) 537-3529

Attorneys for the Applicants

Exhibit P-3

Notice of Action dated March 19, 2021

Exhibit P-3

Court File No./N° du dossier du greffe: CV-21-00659162-00CP

Electronically issued
Délivré par voie électronique : 19-Mar-2021
Toronto

Court File No.:

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

MARK ARBOUR

Plaintiff

\- and -

XEBEC ADSORPTION INC., KURT SORSCHAK, STÉPHANE ARCHAMBAULT, LOUIS DUFOUR, WILLIAM BECKETT, GUY SAINT-JACQUES, PETER BOWIE, PRABHU RAO, JOSEPH H. PETROWSKI, SARA ELFORD, RAYMOND CHABOT GRANT THORNTON LLP, DESJARDINS SECURITIES INC., TD SECURITIES INC., NATIONAL BANK FINANCIAL INC., CANACCORD GENUITY GROUP INC., RAYMOND JAMES LTD., BEACON SECURITIES LIMITED and STIFEL NICOLAUS CANADA INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

NOTICE OF ACTION

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: Issued by ______________________________
Local registrar

Address of court office: 361 University Ave.
Toronto, ON
M5G 1T3

TO: **Xebec Adsorption Inc.**
730 boulevard Industriel
Blainville, Québec J7C 3V4

AND TO: **Kurt Sorschak,** c/o Xebec Adsorption Inc.

AND TO: **Stéphane Archambault,** c/o Xebec Adsorption Inc.

AND TO: **Louis Dufour,** c/o Xebec Adsorption Inc.

AND TO: **William Beckett,** c/o Xebec Adsorption Inc.

AND TO: **Guy Saint-Jacques,** c/o Xebec Adsorption Inc.

AND TO: **Peter Bowie,** c/o Xebec Adsorption Inc.

AND TO: **Prabhu Rao,** c/o Xebec Adsorption Inc.

AND TO: **Joseph H. Petrowski,** c/o Xebec Adsorption Inc.

AND TO: **Sara Elford,** c/o Xebec Adsorption Inc.

AND TO: **Raymond Chabot Grant Thornton LLP**
National Bank Tower
Suite 200, 600 de la Gauchetière Street West
Montréal, Québec
H3B 4L8

AND TO: **Desjardins Securities Inc.**
1170, rue Peel
Bureau 300
Montréal (Québec) H3B 0A9

AND TO: **TD Securities Inc.**
P.O Box 1, TD Bank Tower
66 Wellington Street West
Toronto, Ontario M5K 1A2

AND TO: **National Bank Financial Inc.**
130 King Street West Suite 3200
Toronto, Ontario M5X 1J9

AND TO: **Canaccord Genuity Group Inc.**
Brookfield Place
161 Bay Street, Suite 3000
P.O. Box 516
Toronto, ON M5J 2S1

AND TO: **Raymond James Ltd.**
#5300, 40 King Street West
Scotia Plaza, P.O. Box 415
Toronto, Ontario M5H 3Y2

AND TO: **Beacon Securities Limited**
66 Wellington St W
Suite 4050
Toronto, ON M5K 1H1

AND TO: **Stifel Nicolaus Canada Inc.**
79 Wellington Street West
21st Floor
Toronto, ON M5K 1B7

I. CLAIM

1. The Plaintiff claims:

(a) an order pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 certifying this action as a class proceeding and appointing the Plaintiff as the representative Plaintiff on behalf of any individual or entity that acquired Xebec Adsorption Inc. ("**Xebec**") securities before March 12, 2020 at 8:19 AM ET (the "**Class Period**" and the "**Class**");

(b) an order granting leave to proceed with the statutory claim for misrepresentation under Part XXIII.1 of the Ontario *Securities Act* (the "***OSA***")*,* or, if necessary, the corresponding provisions of the securities legislation elsewhere in Canada (the "**Securities Legislation**");

(c) a declaration that the documents published by Xebec during the Class Period (the "**Misleading Documents**") contained misrepresentations within the meaning of the *OSA*, the other Securities Legislation, and the common law;

(d) a declaration that the individual Defendants authorized, permitted or acquiesced in the making of the misrepresentations while knowing them to be misrepresentations;

(e) a declaration that the Defendants owed the Plaintiff and Class a duty of care in the preparation and dissemination of the Misleading Documents and that they breached that duty of care;

(f) a declaration that

(i) the acts or omissions of Xebec or its affiliates have effected a result;

(ii) the business and affairs of Xebec or its affiliates have been carried on or conducted in a manner; and

(iii) the powers of the directors of Xebec or its affiliates, or one or more of them, have been exercised in a manner,

that is or has been oppressive or unfairly prejudicial to or that unfairly disregards or disregarded the interests of the Plaintiff and Class, pursuant to section 241 of the Canada *Business Corporations Act* (the "***CBCA***");

(g) a declaration that Xebec, Raymond Chabot Grant Thornton LLP and the individual Defendants are liable in damages to the members of the Class that purchased Xebec securities on the secondary market for misrepresentations in Xebec's public disclosure pursuant to Part XXIII.1 of the *OSA*, the corresponding provisions of the other Securities Legislation, and the common law;

(h) a declaration that the Defendants are liable in damages to the members of the Class who purchased Xebec securities on the primary market under section 130 of the

OSA, the corresponding provisions of the other Securities Legislation, and the common law;

(i) a declaration that each of the misrepresentations give rise to separate liability limits for each of Xebec, Raymond Chabot Grant Thornton LLP and the individual Defendants pursuant to Part XXIII.1 of the *OSA* and the corresponding provisions of the other Securities Legislation, such that there is no basis to grant Xebec, Raymond Chabot Grant Thornton LLP and the individual Defendants relief under section 138.3(6) of the *OSA* and the corresponding provisions of the other Securities Legislation to treat the misrepresentations as a single misrepresentation;

(j) compensation for oppression and damages for negligent misrepresentation and pursuant to Parts XXIII and XXIII.1 of the *OSA* and, if necessary, the corresponding provisions of the Securities Legislation in an amount that this Court finds appropriate;

(k) punitive damages against the Defendants in an amount that this Court find appropriate;

(l) a declaration that Xebec is vicariously liable for the acts and omissions of its officers, directors and employees;

(m) an order directing a reference or giving such other directions as may be necessary to determine issues not determined in the trial of the common issues;

(n) prejudgment interest and postjudgment interest, pursuant to ss. 128 and 129 of the *Courts of Justice Act*, R.S.O 1990, c. C.43;

(o) costs of this action, plus pursuant to s. 26(9) of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6*,* the costs of notices and of administering the plan of distribution of the recovery in this action; and

(p) such further and other relief as to this Honourable Court seems just.

II. NATURE OF THE CASE

2. The Plaintiff, Mark Arbour, resides in Zurich, Ontario. During the Class Period, he purchased Xebec shares on the primary and secondary markets.

3. The Defendant Xebec is incorporated under the *CBCA*. Xebec is a provider of gas generation, purification and filtration solutions for the industrial, energy and renewables marketplace. Xebec's shares trade on the TSX, and prior to that on the TSX-V.

4. The other defendants are comprised of current or former directors and/or officers of Xebec; Xebec's auditor; and various financial institutions that acted as underwriters in connection with Xebec's primary market offering.

5. The misrepresentations were first publicly disclosed by Xebec on March 12, 2021 through a press release entitled "Xebec Provides Updated 2020 Guidance" that disclosed various problems in connection with improperly recognized and reported revenue. As a result, Xebec no longer expected to meet its previously disclosed revenue guidance.

6. On this news, the price of Xebec's shares dropped from $7.94 at the close of trading on March 11, 2021 to $5.46 at the close of trading on March 12, 2021 and continued to drop thereafter.

7. The Plaintiff proposes that this action be tried in the City of Toronto, in the Province of Ontario.

March 19, 2021

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Lawyers for the Plaintiff

Mark Arbour
Plaintiff and Xebec Adsorption Inc. et al.
Defendant

Court File No.:

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

NOTICE OF ACTION

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Lawyers for the Plaintiff

Exhibit P-4

Underwriting Agreement dated
December 14, 2020

UNDERWRITING AGREEMENT

December 14, 2020

Xebec Adsorption Inc.
730 Boulevard Industriel
Blainville, Québec J7C 3V4

Attention: Mr. Kurt Sorschak, Chairman, President and Chief Executive Officer

Dear Sir:

Re: Public Offering of Subscription Receipts

Desjardins Securities Inc. and TD Securities Inc., as co-lead underwriters and joint bookrunners (the "**Joint Bookrunners**"), and National Bank Financial Inc., Canaccord Genuity Group Inc., Raymond James Ltd., Beacon Securities Limited and Stifel Nicolaus Canada Inc. (together with the Joint Bookrunners, the "**Underwriters**") hereby severally, and not jointly and severally, offer and agree to purchase, on a "bought deal" basis, or alternatively to arrange, as agent for substituted purchasers in the Qualifying Jurisdictions (as defined below) and the other jurisdictions contemplated herein, including the United States, to purchase, from Xebec Adsorption Inc. (the "**Company**"), and the Company hereby agrees to issue and sell to the Underwriters or substituted purchasers, an aggregate of 21,552,000 subscription receipts of the Company (the "**Subscription Receipts**"), at a price of $5.80 per Subscription Receipt (the "**Purchase Price**"), for aggregate gross proceeds of $125,001,600, upon and subject to the terms and conditions contained herein (the "**Offering**").

The Underwriters understand that the Company has entered into a share purchase agreement (the "**Acquisition Agreement**") with SDi Technology Ventures B.V., Ontwikkelingsmaatschappij OOST-Nederland N.V. and Stichting Administratiekantoor HyGear and to acquire (through one of its subsidiaries) all of the issued and outstanding shares of Green Vision B.V., the parent company of HyGear Technology and Services B.V. ("**HyGear**"), for a purchase price of approximately $127.3 million (the "**Acquisition**"), which purchase price is to be satisfied through the issuance of 10,301,824 Common Shares (as defined below) at a price of $6.03 per share and a cash consideration of $65.2 million (the "**Cash Consideration**"). The closing of the Acquisition is expected to occur on or about December 30, 2020 (the "**Acquisition Closing**").

The Underwriters also understand that the Company has also executed a non-binding letter of intent to acquire a leading industrial gas generation technology and manufacturing business, as well as a non-binding letter of intent to acquire a specialty compressed air and air treatment services company (together, the "**LOI Acquisitions**"). The aggregate purchase price for the LOI Acquisitions (excluding closing costs) is anticipated to be between $35 million and $60 million.

We also understand that the Company intends to prepare and file a preliminary short form prospectus and a final short form prospectus and any ancillary documents and amendments to such documents necessary in order to qualify the Subscription Receipts for distribution in each of the Qualifying Jurisdictions. We further understand that the Company is qualified to file a prospectus for the distribution of the Subscription Receipts by means of a short form prospectus in each of the Qualifying Jurisdictions.

The Subscription Receipts will be created pursuant to a subscription receipt agreement (the "**Subscription Receipt Agreement**") to be entered into among the Company, the Joint Bookrunners (on behalf of the Underwriters) and AST Trust Company (Canada), as subscription receipt agent (the "**Subscription Receipt Agent**"), to be dated as of the Closing Date (as defined below).

Upon and subject to the terms and conditions herein set forth and in reliance upon the representations and warranties herein contained, the Company hereby grants to the Underwriters, in the respective percentages set out in Section 19 of this Agreement (as defined below), an option (the "**Over-Allotment Option**") to purchase, or arrange for substituted purchasers to purchase, up to 3,232,800 additional Subscription Receipts (the "**Additional Subscription Receipts**") at a price equal to the Purchase Price, that is exercisable on or before 5:00 p.m. (Montréal time) on the date that is 30 days after the Closing Date. The Over-Allotment Option may be exercised in whole or in part at any time and from time to time prior to its expiry in accordance with the provisions of this Agreement. The Underwriters shall be under no obligation whatsoever to exercise the Over-Allotment Option in whole or in part.

Delivery of and payment for any Additional Subscription Receipts will be made at the time and on the date (each an "**Option Closing Date**") as set out in a written notice of the Joint Bookrunners, on behalf of the Underwriters, referred to below, which Option Closing Date may occur on the Closing Date but will in no event occur earlier than the Closing Date, nor earlier than two Business Days (as defined below) or later than seven Business Days after the date upon which the Company receives a written notice from the Joint Bookrunners, on behalf of the Underwriters, setting out the number of Additional Subscription Receipts to be purchased by the Underwriters. Any such notice must be received by the Company not later than 5:00 p.m. (Montréal time) on the date that is 30 days after the Closing Date. Upon the furnishing of such a notice, the Underwriters will be committed to purchase and/or arrange for substituted purchasers to purchase (as the case may be), and the Company will be committed to sell and deliver to the Underwriters and/or any substituted purchasers (as the case may be), in accordance with and subject to the provisions of this Agreement, the number of Additional Subscription Receipts indicated in such notice.

Upon the closing of the Offering, the gross proceeds from the Offering, less an amount equal to 50% of the Underwriters Fee (as defined below) payable in accordance herewith (the "**Escrowed Funds**"), together with the interest earned thereon, will be held in escrow by the Subscription Receipt Agent, and will be deposited or invested, as the case may be, in short-term interest bearing or discount debt obligations issued or guaranteed by the Government of Canada (and other permitted investments), until the earlier of (i) the delivery of the Escrow Release Notice and Direction (as defined below) and (ii) the Termination Time (as defined below), the whole pursuant to the terms of the Subscription Receipt Agreement.

If the Acquisition Closing occurs before the Acquisition Outside Time (as defined below), the holders of Subscription Receipts will receive (i) on the Acquisition Closing Date (as defined below), without payment of additional consideration, one Underlying Common Share (as defined below) for each Subscription Receipt held, and (ii) on the later of the Acquisition Closing Date or the date the dividend is paid to shareholders, an amount equal to any cash dividends declared by the Corporation per Common Share (as defined herein) to holders of record on a date during the period from the Offering Closing Date to the Acquisition Closing Date (the "**Dividend Equivalent Payment**"). Forthwith upon the delivery of the Escrow Release Notice and Direction to the Subscription Receipt Agent, the Escrowed Funds, together with the interest earned thereon (less an amount required to satisfy the Dividend Equivalent Payment, if any), less 50% of the Underwriters Fee, will be released to the Company, and 50% of the Underwriters Fee will be remitted to the Joint Bookrunners on behalf of the Underwriters.

Upon release of the Escrowed Funds, the net proceeds of the Offering and the Concurrent Private Placement (as defined below) will be used by the Company, as further described in the Prospectus (as defined below), to pay the Cash Consideration, to pay the expenses related to the Acquisition, to fund future potential acquisitions (which may include the LOI Acquisitions) and growth opportunities, to repay certain indebtedness of HyGear and for working capital and general corporate purposes.

In the event that (i) the Escrow Release Conditions (as defined below) have been satisfied on or before 5:00 p.m. (Montreal time) on February 28, 2021 (the "**Acquisition Outside Time**"), (ii) the Company delivers to the Underwriters a notice declaring that the it will not be proceeding with the Acquisition, (iii) the Company formally announces to the public by way of press release that it does not

intend to proceed with the Acquisition; (iv) the Acquisition Agreement is terminated in accordance with its terms prior to the Acquisition Outside Time for any reason; or (v) a Termination Event (as such term is defined in the Placement Subscription Agreement (as defined below)), which has not been waived by the Joint Bookrunners, occurs (each of (i), (ii), (iii) (iv) and (v) being a "**Termination Event**" and the date on which a Termination Event occurs being the "**Termination Date**" and the time of occurrence of the earliest of such Termination Events being the "**Termination Time**"), holders of Subscription Receipts will, commencing on the third Business Day following the Termination Time, be entitled to receive from the Subscription Receipt Agent an amount equal to the full subscription price thereof plus their *pro rata* share of the Earned Interest (as defined below) and Deemed Interest (as defined below), less applicable withholding taxes. In the event that the gross proceeds of the Offering are required to be remitted to purchasers of the Subscription Receipts as aforesaid, the Company shall pay the Subscription Receipt Agent an amount equal to 50% of the Underwriters Fee with respect to the Subscription Receipts, plus the Deemed Interest, such that 100% of the gross proceeds of the Offering and the interest thereon (including the Deemed Interest) would be returned to purchasers of Subscription Receipts.

If the satisfaction of the Escrow Release Conditions and the Acquisition Closing Date occur prior to or concurrently with the Closing Date or any Option Closing Date, investors in the Offering will receive an equal number of Common Shares on the Closing Date or on any Option Closing Date, as the case may be, in lieu of Subscription Receipts, and the Underwriters will be entitled to receive upon such Closing Date or Option Closing Date 100% of the Underwriters' Fee.

Concurrent with closing of the Offering, the Company will issue 9,482,760 Subscription Receipts (the "**Placement Subscription Receipts**") at a price of $5.80 per Placement Subscription Receipt to the Placement Subscriber (as defined below) on a private placement basis (the "**Concurrent Private Placement**"). In addition, the Corporation has granted to the Private Placement Subscriber an option, exercisable at the same time as, and pro rata to, the exercise of the Over-Allotment Option by the Underwriters, to purchase up to an additional 1,422,414 Placement Subscription Receipts on the same terms and conditions as the Concurrent Private Placement. The Placement Subscription Receipts sold pursuant to the Concurrent Private Placement will be subject to a statutory hold period of four months from the Closing Date. The closing of the Concurrent Private Placement is scheduled to occur on the Closing Date and is subject to a number of conditions. The closing of the Offering is conditional on the concurrent closing of the Concurrent Private Placement (unless such condition is waived by the Joint Bookrunners) and closing of the Concurrent Private Placement is conditional on closing of the Offering.

Unless the context otherwise requires or unless otherwise specifically stated, all references in this Agreement to (i) the "**Offering**" shall be deemed to include the Over-Allotment Option, and (ii) the "**Offered Subscription Receipts**" shall mean, collectively, the Subscription Receipts and any Additional Subscription Receipts.

The Company agrees that each of the Underwriters will be permitted to appoint, at the sole cost and expense of the Underwriter so appointing, other registered dealers (or other dealers duly qualified in their respective jurisdictions) as their agents to assist in the Offering, and that the Underwriters may determine the remuneration payable to such other dealers appointed by them; provided that, for certainty, the Company shall not have any liability for any such remuneration.

The Underwriters may offer the Offered Subscription Receipts at a price less than the Purchase Price as described in further detail in Section 19(3) below, in compliance with Applicable Securities Laws and, specifically, the requirements of NI 44-101 (as defined below) and the disclosure concerning the same contained in the Prospectus (as defined below).

The Company and the Underwriters agree that any offers to sell or sales of the Offered Subscription Receipts to purchasers that are in the United States (as defined below) may only be made in compliance with U.S. Securities Laws (as defined below). The Underwriters may, through their U.S. Affiliates (as defined below), if applicable, offer and sell the Offered Subscription Receipts in the United States to Qualified Institutional Buyers (as defined below), pursuant to and in accordance with the exemptions from the registration requirements of the U.S. Securities Act (as defined below).

The Offering is conditional upon and subject to the additional terms and conditions set forth below. The following are additional terms and conditions of the Agreement between the Company and the Underwriters:

Section 1 Definitions and Interpretation

(1) ***Definitions*** – In addition to the terms previously defined and terms defined elsewhere in this Agreement (including the Schedules hereto), where used in this Agreement or in any amendment hereto, the following terms shall have the following meanings, respectively:

"**Acquisition**" has the meaning set forth in the preamble hereto;

"**Agreement**" means this underwriting agreement dated December 14, 2020 between the Company and the Underwriters, as the same may be supplemented, amended and/or restated from time to time;

"**Acquisition Agreement**" has the meaning set forth in the preamble hereto;

"**Acquisition Closing**" has the meaning set forth in the preamble hereto;

"**Acquisition Closing Date**" means the date of the Acquisition Closing;

"**Acquisition Financial Information**" the financial information with respect to HyGear included in the Prospectus under the heading "Disclosure Regarding Forward-Looking Statements";

"**Acquisition Financial Statement**" means the audited financial statements of HyGear for the years ended December 31, 2019, December 31, 2018 and January 1, 2018, together with the notes thereto and the independent auditor's report thereon, as included in the Prospectus;

"**Acquisition Outside Time**" has the meaning set forth in the preamble hereto;

"**Act**" means the *Securities Act* (Québec);

"**Additional Subscription Receipts**" has the meaning set forth in the preamble hereto;

"**AMF**" means the *Autorité des marchés financiers*, as the Company's principal regulator;

"**Ancillary Documents**" means all agreements, indentures, certificates (including the certificates, if any, representing the Offered Subscription Receipts), officers' certificates, notices and other documents executed and delivered, or to be executed and delivered, by the Company in connection with the Offering, whether pursuant to Applicable Securities Laws or otherwise;

"**Applicable Anti-Money Laundering Laws**" has the meaning ascribed thereto in Section 9(uu) of this Agreement;

"**Applicable Laws**" means, in relation to any person or persons, the Applicable Securities Laws and all other statutes, regulations, rules, orders, by-laws, codes, ordinances, decrees, the terms and conditions of any grant of approval, permission, authority or licence, or any judgment, order, decision, ruling, award, policy or guidance document that are applicable to such person or persons or its or their business, undertaking, property or securities and emanate from a Governmental Authority having jurisdiction over the person or persons or its or their business, undertaking, property or securities;

"**Applicable Securities Laws**" means, collectively, (a) the applicable securities laws of each of the Qualifying Jurisdictions and their respective regulations, rulings, rules, blanket orders,

instruments (including national and multinational instruments), fee schedules and prescribed forms thereunder, the applicable policy statements issued by the Securities Commissions and the rules and policies of the TSXV, (b) all applicable securities laws in the United States, including without limitation, the U.S. Securities Act, the U.S. Exchange Act and the rules and regulations promulgated thereunder, and any applicable state securities laws;

"**Beneficiaries**" has the meaning ascribed thereto in Section 14(3) of this Agreement;

"**Business Day**" means a day, other than a Saturday, a Sunday or a day on which chartered banks are not open for business in Montréal, Québec or Toronto, Ontario;

"**Cash Consideration**" has the meaning set forth in the preamble hereto;

"**CBCA**" means the *Canada Business Corporations Act*;

"**CDS**" means CDS Clearing and Depository Services Inc.;

"**Claims**" and "**Claim**" have the meanings ascribed thereto in Section 14(1) of this Agreement;

"**Closing**" means the closing of the Offering;

"**Closing Date**" means December 30, 2020 or such earlier or later date (not to exceed 42 days from the date of the Final Receipt) as may be agreed to in writing by the Company and the Joint Bookrunners on behalf of the Underwriters, each acting reasonably;

"**Closing Time**" means 8:00 a.m. (Montréal time) on the Closing Date or Option Closing Date, as applicable, or such other time on the Closing Date or Option Closing Date, as applicable, as may be agreed to by the Company and the Joint Bookrunners on behalf of the Underwriters;

"**Common Shares**" means the common shares in the capital of the Company;

"**Company**" has the meaning set forth in the preamble hereto;

"**Company's Auditors**" means such firm of certified professional accountants as the Company may have appointed or may from time to time appoint as auditors of the Company;

"**Concurrent Private Placement**" has the meaning set forth in the preamble hereto;

"**Debt Instrument**" means the 2018 EDC Credit Facility, the 2018 EDC Bonding Facility, the NB Operating Facility, the NB Guarantee Facility, the FTQ Loan and any other loan, bond, debenture, credit facility, promissory note or other instrument evidencing indebtedness (demand or otherwise) for borrowed money, to which the Company or any of its subsidiaries is a party or by which any of their property or assets are bound;

"**Deemed Interest**" means an amount equal to the interest and other income that would have otherwise been earned on the 50% of the Underwriters Fee paid to the Underwriters if such fee had been held in escrow as part of the Escrowed Funds and not paid to the Underwriters on the Closing Date;

"**Defaulted Subscription Receipts**" has the meaning ascribed thereto in Section 19 of this Agreement;

"**Disclosure Record**" means the Company's prospectuses, annual reports, annual and interim financial statements, annual information forms, business acquisition reports, management discussion and analysis of financial condition and results of operations, information circulars,

material change reports, press releases and all other information or documents required to be filed or furnished by the Company under Applicable Securities Laws which have been publicly filed or otherwise publicly disseminated by the Company since January 1, 2020;

"**distribution**" means distribution or distribution to the public, as the case may be, for the purposes of the Applicable Securities Laws;

"**Dividend Equivalent Payment**" has the meaning set forth in the preamble hereto;

"**Documents Incorporated by Reference**" means the documents specified in the Preliminary Prospectus, Prospectus or any Supplemental Material, as the case may be, as being incorporated therein by reference, together with such other documents which are deemed to be incorporated therein by reference pursuant to Applicable Securities Laws;

"**Earned Interest**" means the interest or other income actually earned on the investment of the Escrowed Funds from, and including, the Closing Date to, but excluding, the earlier of (i) the Termination Time, and (ii) the delivery of the Escrow Release Notice and Direction;

"**Eligible Issuer**" means an issuer which meets the criteria and has complied with the requirements of NI 44-101 so as to be qualified to offer securities by way of a short form prospectus under Applicable Securities Laws;

"**Employee Plans**" has the meaning ascribed thereto in Section 9(zz) of this Agreement;

"**Environmental Laws**" has the meaning ascribed thereto in Section 9(kk) of this Agreement;

"**Environmental Permits**" has the meaning ascribed thereto in Section 9(ll) of this Agreement;

"**Escrow Release Conditions**" means that (a) all conditions, undertakings, and other matters to be satisfied, completed and otherwise met prior to the completion of the Acquisition in accordance with the Acquisition Agreement, and without waiver of any material provision thereof, in whole or in part, by any of the parties thereto unless the consent of the Joint Bookrunners, is given to such waiver, have been satisfied, completed, or otherwise met prior to the occurrence of a Termination Event, other than the payment of the consideration to be paid pursuant to the Acquisition for which the Escrowed Proceeds are required, in whole or in part, and the satisfaction of such conditions precedent that by their nature are to be satisfied at the Acquisition Closing, (b) there have been no material amendments of the terms and conditions of the Acquisition Agreement which have not been approved by the Joint Bookrunners prior to the occurrence of a Termination Event, and (c) the escrow release conditions under the Placement Subscription Receipt Agreement having been satisfied or waived; provided that the Escrow Release Conditions may, if the foregoing conditions are met, at the election of the Company, occur up to five business days prior to the Acquisition Closing Date. For the avoidance of doubt, the completion of the LOI Acquisitions shall not be deemed to be an Escrow Release Condition.

"**Escrow Release Notice and Direction**" means a notice delivered by the Company to the Joint Bookrunners and the Subscription Receipt Agent certifying that the Escrow Release Conditions have been satisfied;

"**Escrowed Funds**" has the meaning set forth in the preamble hereto;

"**Final Receipt**" means the Passport Receipt for the Prospectus;

"**Financial Information**" means the Financial Statements and certain other financial information of the Company and its subsidiaries (including financial forecasts, auditors' reports, accounting data, management's discussion and analysis of financial condition and results of operations)

included or incorporated by reference in the Preliminary Prospectus, Prospectus and any Supplementary Materials;

“**Financial Statements**” means, collectively, the (a) audited consolidated financial statements of the Company as at and for the financial year ended December 31, 2019 and 2018, together with the notes thereto and the Company Auditors’ report thereon, which are incorporated by reference in the Offering Documents and (b) the unaudited interim condensed financial statements of the Company as at and for the three-month and nine-month periods ended September 30, 2020, which are incorporated by reference in the Offering Documents;

“**FTQ Loan**” means the unsecured loan facility in the amount of $10,000,000, pursuant to a loan agreement dated May 5, 2020 between Fonds de solidarité des travailleurs du Québec (F.T.Q.), as lender, and the Company, as borrower;

“**Governmental Authority**” means any governmental authority and includes, without limitation, any international, national, federal, state, provincial or municipal government or other political subdivision of any of the foregoing, any entity exercising executive, legislative, judicial, regulatory or administrative functions on behalf of a governmental authority or pertaining to government and any corporation or other entity owned or controlled (through stock or capital ownership or otherwise) by any of the foregoing;

“**Governmental Licences**” has the meaning ascribed thereto in Section 9(gg) of this Agreement;

“**HyGear**” has the meaning set forth in the preamble hereto;

“**HyGear’s Auditors**” means Flynth Audit B.V.;

“**IFRS**” means International Financial Reporting Standards as issued by the International Accounting Standards Board, which were adopted by the Canadian Accounting Standards Board as Canadian generally accepted accounting principles applicable to publicly accountable enterprises;

“**Indemnified Parties**” and “**Indemnified Party**” have the meanings ascribed thereto in Section 14(1) of this Agreement;

“**Intellectual Property**” means all of the following which is currently owned by, issued to or licensed to the Company or one of its subsidiaries, or other rights of the Company or one of its subsidiaries to use the following (a) patent rights, issued patents, patent applications, patent disclosures, and registrations, inventions, discoveries, developments, concepts, ideas, improvements, processes and methods, whether or not such inventions, discoveries, developments, concepts, ideas, improvements, processes, or methods are patentable or registrable, anywhere in the world, (b) copyrights (including performance rights) to any original works of art or authorship, including source code and graphics, which are fixed in any medium of expression, including copyright registrations and applications therefor, anywhere in the world, whether or not registered or registrable, (c) any and all common law or registered trade-mark rights, trade names, business names, trade-marks, proposed trade-marks, certification marks, service marks, distinguishing marks and guises, logos, slogans, goodwill, domain names and any registrations and applications therefor, anywhere in the world, whether or not registered or registrable, (d) know-how, show-how, confidential information, trade secrets, (e) any and all industrial design rights, industrial designs, design patents, industrial design or design patent registrations and applications therefor, anywhere in the world, whether or not registered or registrable, (f) any and all integrated circuit topography rights, integrated circuit topographies and integrated circuit topography applications, anywhere in the world, whether or not registered or registrable, (g) any reissues, divisions, continuations, continuations-in-part, renewals, improvements, translations, derivatives, modifications and extensions of any of the foregoing, (h)

any other industrial, proprietary or intellectual property rights, anywhere in the world, and (i) proprietary computer software (including but not limited to data, data bases and documentation);

"**Joint Bookrunners**" has the meaning set forth in the preamble hereto;

"**LOI Acquisitions**" has the meaning set forth in the preamble hereto;

"**Losses**" has the meaning ascribed thereto in Section 14(1) of this Agreement;

"**marketing materials**" and "**template version**" shall have their respective meanings ascribed thereto in NI 41-101;

"**Material Adverse Effect**" means any change, fact, event, violation, inaccuracy, circumstance, state of being or effect that is materially adverse (actually or anticipated, whether financial or otherwise) to the business, assets (including intangible assets), affairs, operations, prospects, liabilities (contingent or otherwise), capital, properties, condition (financial or otherwise) or results of operations of the Company and its subsidiaries, on a consolidated basis, and for the purposes of each of the foregoing, any effects of the COVID-19 pandemic prior to the date hereof already disclosed in the Prospectus or the Disclosure Record or to the Underwriters shall be disregarded in any determination as to whether a Material Adverse Effect has occurred;

"**Material Agreement**" means any material contract, commitment, agreement (written or oral), joint venture instrument, lease or other document, including a license agreement, to which the Company or any of its subsidiaries is a party or by which any of their property or assets are bound;

"**material change**" has the meaning ascribed thereto in the Applicable Securities Laws of the Qualifying Jurisdictions;

"**material fact**" has the meaning ascribed thereto in the Applicable Securities Laws of the Qualifying Jurisdictions;

"misrepresentation" has the meaning ascribed thereto in the Applicable Securities Laws of the Qualifying Jurisdictions;

"**NB Guarantee Facility**" means the guarantee facility in the amount of up to $12,000,000, pursuant to an agreement dated August 20, 2018, between the National Bank of Canada, as lender, Export Development Canada, as guarantor, and the Company, as borrower;

"**NB Operating Facility**" means the credit facilities in the amount of $2,000,000, pursuant to a credit facility agreement dated August 20, 2018, between the National Bank of Canada, as lender, Export Development Canada, as guarantor, and the Company, as borrower;

"**NI 41-101**" means National Instrument 41-101 – *General Prospectus Requirements* of the Canadian Securities Administrators;

"**NI 44-101**" means National Instrument 44-101 – *Short Form Prospectus Distributions* of the Canadian Securities Administrators;

"**NI 51-102**" means National Instrument 51-102 – *Continuous Disclosure Obligations* of the Canadian Securities Administrators;

"**Offered Subscription Receipts**" has the meaning set forth in the preamble hereto;

"**Offering**" has the meaning set forth in the preamble hereto;

“**Offering Documents**” means, collectively, the Preliminary Prospectus, the Prospectus and the Supplementary Material, and also includes, as applicable, the U.S. Placement Memorandum;

“**Option Closing Date**” has the meaning set forth in the preamble hereto;

“**Over-Allotment Option**” has the meaning set forth in the preamble hereto;

“**person**” shall be broadly interpreted and shall include an individual, firm, corporation, syndicate, partnership, trust, association, unincorporated organization, joint venture, investment club, government or agency or political subdivision thereof and every other form of legal or business entity of whatsoever nature or kind;

“**Passport Receipt**” means a receipt issued by the AMF as principal regulator pursuant to the Passport System, and which also evidences the deemed receipt of the Securities Commissions of the Qualifying Jurisdictions (other than Québec), for the Preliminary Prospectus or the Prospectus, as the case may be;

“**Passport System**” means the passport system procedures provided for under National Policy 11-202 - Process for Prospectus Reviews in Multiple Jurisdictions of the Canadian Securities Administrators;

“**Placement Subscriber**” means CDP Investissements Inc.;

“**Placement Subscription Agreement**” means the subscription agreement dated December 8, 2020 between the Placement Subscriber and the Company relating to the Concurrent Private Placement;

“**Placement Subscription Receipt Agreement**” means the agreement to be dated as of the Closing Date and made among the Company, the Placement Subscriber and the Subscription Receipt Agent governing the terms and conditions of the Placement Subscription Receipts;

“**Placement Subscription Receipts**” has the meaning set forth in the preamble hereto;

“**Preliminary Prospectus**” means the English and French language versions (unless the context indicates otherwise) of the preliminary short form prospectus of the Company dated the date hereof relating to the qualification in all of the Qualifying Jurisdictions of the distribution of the Offered Subscription Receipts under the Applicable Securities Laws of the Qualifying Jurisdictions, including all of the Documents Incorporated by Reference;

“**Preliminary Receipt**” means the Passport Receipt for the Preliminary Prospectus;

“**Premises**” has the meaning ascribed thereto in Section 9(w) of this Agreement;

“**Principal Subsidiaries**” means Xebec Adsorption USA Inc., Xebec Adsorption Europe SRL, Compressed Air International Inc., CDA Systems LLC, Xebec Adsorption (Shanghai) Co. Ltd. and GNR Québec Capital Management Inc., and “**Principal Subsidiary**” means any one of them;

“**Proprietary Rights**” has the meaning ascribed thereto in Section 9(z) of this Agreement;

“**Prospectus**” means the English and French language versions (unless the context indicates otherwise) of the (final) short form prospectus of the Company to be prepared in connection with the qualification in all of the Qualifying Jurisdictions of the distribution of the Offered Subscription Receipts under the Applicable Securities Laws of the Qualifying Jurisdictions, including all of the Documents Incorporated by Reference;

"**Purchase Price**" has the meaning set forth in the preamble hereto;

"**Qualified Institutional Buyer**" has the meaning given to it in Schedule "A" to this Agreement;

"**Qualifying Jurisdictions**" means all of the Provinces of Canada;

"**SEDAR**" means the System for Electronic Document Analysis and Retrieval;

"**Securities Commission**" means the applicable securities commission or regulatory authority in each of the Qualifying Jurisdictions and "**Securities Commissions**" means all of them;

"**Selling Firm**" has the meaning ascribed thereto in Section 5(1) of this Agreement;

"**Standard Listing Conditions**" has the meaning ascribed thereto in Section 6(1)(g) of this Agreement;

"**Subscription Receipt Agent**" has the meaning set forth in the preamble hereto;

"**Subscription Receipt Agreement**" has the meaning set forth in the preamble hereto;

"**Subscription Receipts**" has the meaning set forth in the preamble hereto;

"**Subsequent Disclosure Documents**" means any annual and/or interim financial statements, management's discussion and analysis of financial condition and results of operations, information circulars, annual information forms, material change reports or other documents issued by the Company after the date of this Agreement that are required by Applicable Securities Laws of the Qualifying Jurisdictions to be incorporated by reference into the Preliminary Prospectus and/or the Prospectus;

"**subsidiary**" has the meaning ascribed thereto under National Instrument 45-106 – *Prospectus Exemptions*, provided for greater certainty that a subsidiary shall include a trust, general partnership, limited partnership and other types of entities which are not corporations;

"**Supplementary Material**" means the English and French language versions (unless the context indicates otherwise) of, collectively, any amendment to or amendment and restatement of the Preliminary Prospectus and/or the Prospectus, and any further amendment, amendment and restatement or supplemental prospectus thereto or ancillary materials that may be filed by or on behalf of the Company under the Applicable Securities Laws of the Qualifying Jurisdictions relating to the distribution of the Offered Subscription Receipts thereunder;

"**Taxes**" has the meaning ascribed thereto in Section 9(ccc) of this Agreement;

"**Termination Date**" has the meaning set forth in the preamble hereto;

"**Termination Event**" has the meaning set forth in the preamble hereto;

"**Termination Time**" has the meaning set forth in the preamble hereto;

"**TMX Group**" has the meaning given to it in Section 22(2) of this Agreement;

"**TSX**" means the Toronto Stock Exchange;

"**TSXV**" means the TSX Venture Exchange;

"**Underlying Common Shares**" means the Common Shares issuable upon conversion of the Subscription Receipts in accordance with their terms;

"**Underwriters**" has the meaning set forth in the preamble hereto;

"**Underwriters Fee**" has the meaning given to it in Section 2(1) of this Agreement;

"**Underwriters' Information**" means the disclosure relating solely to the Underwriters provided to the Company by or on behalf of the Underwriters in writing for inclusion in any of the Offering Documents;

"**United States**" means the United States of America, its territories and possessions, any state of the United States, and the District of Columbia;

"**U.S. Affiliates**" has the meaning given to it in Schedule "A" to this Agreement;

"**U.S. Placement Memorandum**" has the meaning given to it in Schedule "A" to this Agreement;

"**U.S. Securities Act**" has the meaning given to it in Schedule "A" to this Agreement;

"**U.S. Exchange Act**" has the meaning given to it in Schedule "A" to this Agreement;

"**2018 EDC Bonding Facility**" means the bonding facility in the amount of up to $12,000,000, pursuant to an agreement dated July 23, 2018 between Export Development Canada, as lender, and the Company, as borrower; and

"**2018 EDC Credit Facility**" means the credit facility in the amount of up to $11,000,000, available in two tranches of up to $2,000,000 and up to $9,000,000, respectively, pursuant to a loan agreement dated July 23, 2018 between Export Development Canada, as lender, and the Company, as borrower.

(2) ***Interpretation***

(a) Capitalized terms used but not defined herein have the meanings ascribed to them in the Preliminary Prospectus or, upon filing of the Prospectus, the Prospectus.

(b) Any reference in this Agreement to a Section shall refer to a section of this Agreement.

(c) All words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties referred to in each case require and the verb shall be construed as agreeing with the required word and/or pronoun.

(d) Any reference in this Agreement to "$" or to "dollars" shall refer to the lawful currency of Canada, unless otherwise specified.

(e) The following are the schedules to this Agreement, which schedules (including the representations, warranties and covenants set out therein) are deemed to be a part hereof and are hereby incorporated by reference herein:

Schedule "A" – Terms and Conditions for United States Offers and Sales

Schedule "B" – Form of Lock-Up Agreement

(f) Where any representation or warranty contained in this Agreement or any Ancillary Document is expressly qualified by reference to the "knowledge" of the Company, or

where any other reference is made herein or in any Ancillary Document to the "**Best of the Company's Knowledge**", it shall be deemed to refer to the best of the knowledge of the President and Chief Executive Officer, the Chief Financial Officer or the Vice President, Legal Affairs & Corporate Secretary of the Company after due inquiry.

Section 2 Underwriters Compensation

(1) In consideration for their services in underwriting the distribution of and purchasing the Offered Subscription Receipts, the Company agrees to, at or prior to the Closing Time on the Closing Date or at or prior to the Closing Time on each Option Closing Date, pay the Underwriters at the Closing Time an aggregate cash fee (the "**Underwriters Fee**") equal to 5.0% of the aggregate gross proceeds received from the Offering (including any gross proceeds raised on exercise of the Over-Allotment Option, if applicable, but excluding, for greater certainty, any proceeds from the Concurrent Private Placement) (being a cash fee of $0.29 per Subscription Receipts). The Underwriters acknowledge that a 5.0% step fee is payable entirely to the Joint Bookrunners from, and not in addition to, the Underwriters Fee.

(2) The Underwriters Fee will be payable:

(a) at the Closing Time, 50% of the applicable Underwriters Fee will be deducted from the aggregate gross proceeds of the sale of the Subscription Receipts and withheld for the account of the Underwriters, provided that if the Acquisition Closing occurs prior to the Option Closing Date and that Additional Subscription Receipts are issued pursuant to the Over-Allotment Option, 100% of the applicable Underwriters Fee will be deducted from the gross proceeds of the exercise of the Over-Allotment Option; and

(b) The remaining 50% of the Underwriters Fee will be paid to the Underwriters upon the Acquisition Closing. If the Acquisition Closing does not occur prior to the Acquisition Outside Time, then no further payment on account of the Underwriters Fee will be payable by the Company to the Underwriters.

(3) The Company also agrees to pay the Underwriters' expenses as set forth in Section 16 hereof.

Section 3 Nature of Transaction

(1) Each purchaser who is resident in a Qualifying Jurisdiction shall purchase the Offered Subscription Receipts pursuant to the Prospectus. Each other purchaser not resident in a Qualifying Jurisdiction, or located outside of a Qualifying Jurisdiction, shall purchase Offered Subscription Receipts, which have been qualified by the Prospectus in Canada, only on a private placement basis under the applicable securities laws of the jurisdiction in which the purchaser is resident or located, in accordance with such procedures as the Company and the Underwriters may mutually agree, acting reasonably, in order to fully comply with Applicable Laws and the terms of this Agreement (including Schedule "A" to this Agreement with respect to offers and sales of Offered Subscription Receipts in the United States).

(2) The Company hereby agrees to comply with all Applicable Securities Laws on a timely basis in connection with the distribution of the Offered Subscription Receipts and the Company shall execute and file with the Securities Commissions all forms, notices and certificates relating to the Offering required to be filed pursuant to Applicable Securities Laws in the Qualifying Jurisdictions within the time required, and in the form prescribed, by Applicable Securities Laws in the Qualifying Jurisdictions.

(3) The Company also agrees to file within the periods stipulated under Applicable Laws outside of Canada and at the Company's expense all private placement forms required to be filed by the Company in connection with the Offering and pay all filing fees required to be paid in connection

therewith so that the distribution of the Offered Subscription Receipts outside of Canada may lawfully occur without the necessity of filing a prospectus or any similar document under the Applicable Laws outside of Canada.

(4) The Underwriters agree to offer the Offered Subscription Receipts for sale only in the Qualifying Jurisdictions and to offer the Offered Subscription Receipts to purchasers in the United States only in compliance with Schedule “A” attached hereto, and, subject to the consent of the Company (acting reasonably), in such jurisdictions outside of the Qualifying Jurisdictions and the United States where permitted by and in accordance with Applicable Securities Laws and the applicable securities laws of such other jurisdictions, and provided that in the case of jurisdictions other than the Qualifying Jurisdictions and the United States, the Company shall not be required to become registered or file a prospectus or registration statement or similar document in such jurisdictions and the Company will not be subject to any continuous disclosure requirements in such jurisdictions.

Section 4 Filing of Prospectus

(1) The Company shall:

(a) not later than 5:00 p.m. (Montréal time) on the date hereof, have prepared and filed the Preliminary Prospectus (in both the English and French languages) and other required documents with the Securities Commissions under the Applicable Securities Laws and shall have elected to use the Passport System and designated the AMF as the principal regulator thereunder, and not later than 5:00 p.m. (Montréal time) on December 14, 2020, obtain a Preliminary Receipt from the AMF under the Passport System which shall also evidence that a receipt has been issued or is deemed to have been issued for the Preliminary Prospectus by each of the Securities Commissions of the other Qualifying Jurisdictions; and

(b) forthwith after any comments with respect to the Preliminary Prospectus have been received from the Securities Commissions but, in any event, not later than 5:00 p.m. (Montréal time) on December 21, 2020 (or such later date as may be agreed to in writing by the Company and the Joint Bookrunners on behalf of the Underwriters, each acting reasonably), use commercially reasonable efforts to have prepared and filed the Prospectus (in both the English and French languages) and other required documents with the Securities Commissions under the Applicable Securities Laws and elected to use the Passport System and designated the AMF as the principal regulator thereunder, and shall have obtained a Final Receipt from the AMF under the Passport System which shall also evidence that a receipt has been issued or is deemed to have been issued for the Prospectus by each of the Securities Commissions of the other Qualifying Jurisdictions and otherwise fulfilled all legal requirements to qualify the Offered Subscription Receipts and the Underlying Common Shares for distribution to the public in the Qualifying Jurisdictions through the Underwriters or any other registered dealer in the applicable Qualifying Jurisdictions.

(2) During the period of distribution of the Offered Subscription Receipts, the Company will promptly take, or cause to be taken, any additional steps and proceedings that may from time to time be required under the Applicable Securities Laws, or be requested by the Joint Bookrunners, acting reasonably, on behalf of the Underwriters, to continue to qualify the distribution of the Offered Subscription Receipts and the Underlying Common Shares.

(3) Prior to the filing of the Preliminary Prospectus and the Prospectus and thereafter, during the period of distribution of the Offered Subscription Receipts, including prior to the filing of any Supplemental Material, the Company shall have allowed the Underwriters to review and comment on such documents and shall have allowed the Underwriters to conduct all due diligence investigations (including through the conduct of oral due diligence sessions at which management

of the Company, the Company's Auditors, legal counsel, HyGear's Chief Executive Officer and other applicable experts will attend) which they may reasonably require in order to fulfill their obligations as underwriters in order to enable them to execute the certificate required to be executed by them at the end of the Offering Documents. Without limiting the scope of the due diligence inquiry the Underwriters (or their counsel) may conduct, the Company shall use its best efforts to make available its directors, senior management, Company's Auditors, legal counsel, HyGear's Chief Executive Officer to answer any questions which the Underwriters may have and to participate in one or more due diligence sessions to be held prior to filing of each of the Preliminary Prospectus, the Final Prospectus and any Supplementary Material.

Section 5 Distribution and Certain Obligations of Underwriters

(1) The Underwriters shall, and shall require any investment dealer (other than the Underwriters) with which the Underwriters have a contractual relationship in respect of the distribution of the Offered Subscription Receipts (each, a "**Selling Firm**") to agree to, comply with the Applicable Securities Laws in connection with the distribution of the Offered Subscription Receipts and shall offer the Offered Subscription Receipts for sale to the public directly and through Selling Firms upon the terms and conditions set out in the Prospectus and this Agreement. The Underwriters shall, and shall require any Selling Firm to agree to, offer for sale to the public and sell the Offered Subscription Receipts only in those jurisdictions where they may be lawfully offered for sale or sold and shall seek the prior consent of the Company, such consent not to be unreasonably withheld, regarding the jurisdictions other than the Qualifying Jurisdictions and the United States where the Offered Subscription Receipts are to be offered and sold. The Underwriters shall: (a) use all commercially reasonable efforts to complete and cause each Selling Firm to complete the distribution of the Offered Subscription Receipts as soon as reasonably practicable but in any event no later than 42 days after the date of the Final Receipt; and (b) as soon as practicable after the completion of the distribution of the Offered Subscription Receipts, and in any event within 30 days after the later of the Closing Date or the last Option Closing Date, notify the Company thereof and provide the Company with a breakdown of the number of Offered Subscription Receipts distributed in the Qualifying Jurisdictions.

(2) The Underwriters and any Selling Firm shall be entitled to offer and sell the Offered Subscription Receipts to purchasers in the United States solely pursuant to an applicable exemption or exemptions from the registration requirements of the U.S. Securities Act and the registration or qualification requirements of applicable state securities laws, and in other jurisdictions in accordance with any applicable securities and other laws in the jurisdictions in which the Underwriters and/or Selling Firms offer the Offered Subscription Receipts. Any offer or sale of the Offered Subscription Receipts to purchasers in the United States will be made in accordance with Schedule "A" hereto.

(3) For the purposes of this Section 5, the Underwriters shall be entitled to assume that the Offered Subscription Receipts are qualified for distribution in any Qualifying Jurisdiction where a Passport Receipt or similar document for the Prospectus shall have been obtained from or deemed issued by the applicable Securities Commission (including a Final Receipt for the Prospectus issued under the Passport System) following the filing of the Prospectus, unless otherwise notified in writing by the Company.

(4) During the distribution of the Offered Subscription Receipts, other than the Offering Documents, the press release announcing the Offering dated December 8, 2020, the term sheet attached as Schedule "B" to the letter agreement between the Company and the Joint Bookrunners dated December 8, 2020 (which term sheet the Company and the Underwriters agree is a "template version" within the meaning of NI 41-101 of such marketing materials), the press release announcing the upsize of the Offering dated December 9, 2020 and the term sheet attached as Schedule "A" to the letter agreement between the Company and the Joint Bookrunners dated December 9, 2020 (which term sheet the Company and the Underwriters agree is a "template version" within the meaning of NI 41-101 of such marketing materials), the Underwriters shall not

provide any potential investor with any materials or written communication in relation to the distribution of the Offered Subscription Receipts. The Company, and the Underwriters, on a several basis, covenant and agree (a) not to provide any potential investor of Offered Subscription Receipts with any marketing materials unless a template version of such marketing materials has been filed by the Company with the Securities Commissions on or before the day such marketing materials are first provided to any potential investor of Offered Subscription Receipts, (ii) not to provide any potential investor in the Qualifying Jurisdictions with any materials or information in relation to the distribution of the Offered Subscription Receipts or the Company other than (ii) such marketing materials that have been approved and filed in accordance with NI 44-101, (ii) the Preliminary Prospectus, the Prospectus and any Supplementary Material, and (iii) any "standard term sheets" (within the meaning of Applicable Securities Laws) approved in writing by the Company and the Joint Bookrunners on behalf of the Underwriters, and (b) that any marketing materials approved and filed in accordance with NI 44-101 and any standard term sheets approved in writing by the Company and the Joint Bookrunners on behalf of the Underwriters, shall only be provided to potential investors in the Qualifying Jurisdictions.

(5) Notwithstanding the foregoing provisions of this Section 5, an Underwriter will not be liable to the Company under this Section 5 or Schedule "A" with respect to a default under this Section 5 or Schedule "A" by another Underwriter or another Underwriter's U.S. Affiliate or any Selling Firm appointed by another Underwriter. However, each Underwriter shall be liable to the Company under this Section 5 or Schedule "A" with respect to any breach by it, its U.S. Affiliate or any Selling Firm appointed by it of this Section 5 or of the selling restrictions set forth in Schedule "A".

Section 6 Deliveries on Filing and Related Matters

(1) The Company shall deliver, or cause to be delivered, to each of the Underwriters:

(a) concurrently with the filing of each of the Preliminary Prospectus and the Prospectus, as the case may be, a copy of each of the Preliminary Prospectus and Prospectus (in both the English and French language), as the case may be, signed by the Company as required by Applicable Securities Laws;

(b) concurrently with the filing thereof, a copy of any Supplementary Material (in both the English and French language) required to be filed by the Company in compliance with Applicable Securities Laws;

(c) concurrently with the filing of each of the Preliminary Prospectus, the Prospectus and any Supplementary Material:

(i) an opinion of counsel to the Company in Québec, dated the date of the Preliminary Prospectus, the Prospectus or Supplementary Material, as applicable, in form and substance satisfactory to the Underwriters, acting reasonably, addressed to the Underwriters, to the effect that the French language version of the Preliminary Prospectus, the Prospectus or the Supplementary Material (including, for greater certainty, the documents incorporated by reference therein), as applicable, except for the Financial Information as to which no opinion need be expressed by such counsel, is, in all material respects, a complete and proper translation of the English language version thereof;

(ii) an opinion from the Company's Auditors and/or a translation services firm, as applicable, only with respect to the Financial Information and the Acquisition Financial Statements translated by it, dated the date of the Preliminary Prospectus, the Prospectus or Supplementary Material, as applicable, in form and substance satisfactory to the Underwriters, acting reasonably, addressed to the Underwriters, to the effect that the French language version of the Financial

Information and the Acquisition Financial Statements and the remaining financial data upon which auditors usually opine included in the Preliminary Prospectus, the Prospectus or the Supplementary Material (including, for greater certainty, the documents incorporated by reference therein), as applicable, is in all material respects, a complete and proper translation of the English language version thereof (or wording having similar effect);

(d) concurrently with the filing of the Prospectus with the Securities Commissions, a "long form" comfort letter from the Company's Auditors dated the date of the Prospectus, in form and substance satisfactory to the Underwriters, acting reasonably, addressed to the Underwriters and the directors of the Company with respect to the Financial Statements and other financial and accounting information relating to the Company, which letters shall be based on a review by such Company's Auditors within a cut-off date and based on a review of not more than two Business Days prior to the date of the letters, which letters shall be in addition to any auditors' comfort and consent letters addressed to the Securities Commissions in the Qualifying Jurisdictions;

(e) concurrently with the filing of the Prospectus with the Securities Commissions, a "long form" comfort letter from HyGear's Auditors dated the date of the Prospectus, in form and substance satisfactory to the Underwriters, acting reasonably, addressed to the Underwriters and HyGear with respect to the financial statements and other financial and accounting information relating to HyGear contained in the Prospectus, which letters shall be based on a review by such HyGear's Auditors within a cut-off date and based on a review of not more than two Business Days prior to the date of the letters, which letters shall be in addition to any auditors' comfort and consent letters addressed to the Securities Commissions in the Qualifying Jurisdictions;

(f) as soon as possible after the Preliminary Prospectus, the Prospectus and any Supplementary Material are prepared, copies of the U.S. Placement Memorandum, if applicable;

(g) prior to the filing of the Prospectus with the Securities Commissions, copies of correspondence demonstrating that the listing and posting for trading on the TSXV of the Offered Subscription Receipts, the Placement Subscription Receipts and the Common Shares issuable upon exchange of the Offered Subscription Receipts and the Placement Subscription Receipts have been approved subject only to the satisfaction by the Company of such customary and standard conditions imposed by the TSXV in similar circumstances and set forth in a letter of the TSXV addressed to the Company (the "**Standard Listing Conditions**"); and

(h) copies of all other documents resulting or related to the Company taking all other steps and proceedings that may be necessary in order to qualify the Offered Subscription Receipts for distribution in each of the Qualifying Jurisdictions by the Underwriters and other persons who are registered in a category permitting them to distribute the Offered Subscription Receipts under Applicable Securities Laws and who comply with such Applicable Securities Laws.

(2) ***Supplementary Material***

If applicable, the Company shall also prepare and deliver promptly to the Underwriters signed copies of all Supplementary Material. Concurrently with the delivery of any Supplementary Material or the incorporation or deemed incorporation by reference in the Prospectus of any Subsequent Disclosure Document, the Company shall deliver to the Underwriters, with respect to such Supplementary Material or Subsequent Disclosure Document, opinions substantially similar to the opinions referred to in Section 6(1)(c) and a comfort letter from the Company's Auditors substantially similar to the letters referred to in Section 6(1)(d).

(3) ***Representations as to Prospectus and Supplementary Material***

Each delivery to any Underwriter of any Offering Document by the Company shall constitute the representation and warranty of the Company to the Underwriters that:

(a) all information and statements (except for the Underwriters' Information) contained and incorporated by reference in such Offering Documents, are, at their respective dates and, if applicable, the respective dates of filing, of such Offering Documents, true and correct in all material respects and contain no misrepresentation and, on the respective dates of such Offering Documents, constitute full, true and plain disclosure of all material facts relating to the Company and its subsidiaries (on a consolidated basis) and the Offered Subscription Receipts as required by Applicable Securities Laws of the Qualifying Jurisdictions;

(b) no material fact or information (except for the Underwriters' Information) has been omitted from any Offering Document which is required to be stated therein or is necessary to make the statements therein not misleading in the light of the circumstances in which they were made; and

(c) except with respect to except for the Underwriters' Information, each of such Offering Documents complies with the requirements of the Applicable Securities Laws of the Qualifying Jurisdictions in all material respects.

Such deliveries shall also constitute the Company's consent to the Underwriters' and any Selling Firm's use of the Offering Document in connection with the distribution of the Offered Subscription Receipts in compliance with this Agreement.

(4) ***Delivery of Prospectus and Related Matters***

The Company will cause to be delivered to the Underwriters, at those delivery points as the Underwriters request, acting reasonably, as soon as possible and in any event no later than 12:00 noon (Montréal time) on the next Business Day (or by 12:00 noon (Montréal time) on the second Business Day for deliveries outside of Montréal), in each case following the day on which the Company has obtained (i) the Preliminary Receipt for the Preliminary Prospectus, and (ii) the Final Receipt for the Prospectus, and thereafter from time to time during the distribution of the Offered Subscription Receipts, as many commercial copies of the Preliminary Prospectus, the Prospectus, any Supplementary Materials and/or the U.S. Placement Memorandum, as applicable, as the Underwriters may request, acting reasonably. Each delivery of any of the Offering Documents will have constituted or will constitute, as the case may be, consent of the Company to the use by the Underwriters and any Selling Firms of those documents in connection with the distribution and sale of the Offered Subscription Receipts in all of the Qualifying Jurisdictions and of the U.S. Placement Memorandum for the distribution of the Offered Subscription Receipts to purchasers in the United States in compliance with the provisions of Schedule "A".

(5) ***Press Releases***

Neither the Company, nor the Underwriters or their U.S. Affiliates, shall make any public announcement in connection with the Offering, except if the other party has consented to such announcement or the announcement is required by Applicable Securities Laws. For greater certainty, during the period commencing on the date hereof and until completion of the distribution of the Offered Subscription Receipts, the Company will promptly provide to the Underwriters drafts of any press releases of the Company for review and comment by the Underwriters and the Underwriters' counsel prior to issuance, provided that any such review will be completed in a timely manner, and the Company will incorporate in such press releases all

reasonable comments of the Underwriters. Any such press release shall contain substantially the following legend and comply with Rule 135e under the U.S. Securities Act: "NOT FOR DISTRIBUTION TO UNITED STATES NEWS WIRE SERVICES OR FOR DISSEMINATION IN THE UNITED STATES."

Section 7 Material Change

(1) The Company shall promptly inform the Underwriters (and promptly confirm such notification in writing) during the period prior to the Underwriters notifying the Company of the completion of the distribution of the Offered Subscription Receipts in accordance with Section 5(1) hereof of the full particulars of:

(a) any material change whether actual, anticipated, contemplated, or to the Best of the Company's Knowledge, threatened or proposed, in the business, assets (including intangible assets), affairs, operations, prospects, liabilities (contingent or otherwise), capital, properties, condition (financial or otherwise) or results of operations of the Company and its subsidiaries, on a consolidated basis;

(b) any material fact which has arisen or has been discovered that would have been required to have been stated in the Offering Documents had that fact arisen or been discovered on or prior to the date of any of the Offering Documents;

(c) any change in any material fact (which for the purposes of this Agreement shall be deemed to include the disclosure of any previously undisclosed material fact) contained or incorporated by reference in the Offering Documents which, in any case, is, or may be, of such a nature as to render any of the Offering Documents untrue or misleading in any material respect or to result in any misrepresentation in any of the Offering Documents, including as a result of any of the Offering Documents containing or incorporating by reference therein an untrue statement of a material fact or omitting to state a material fact required to be stated therein or necessary to make any statement therein not false or not misleading in the light of the circumstances in which it was made, or which could result in any of the Offering Documents not complying with the Applicable Securities Laws of any Qualifying Jurisdiction;

(d) any notice by any governmental, judicial or regulatory authority requesting any material information, or meeting or hearing, relating to the Company or the Offering; or

(e) any other event or state of affairs that would reasonably be expected to be relevant to the Underwriters' in connection with their due diligence investigations in respect of the Offering.

(2) Subject to Section 7(4), the Company will prepare and file promptly (and, in any event, within the time prescribed by Applicable Securities Laws) any Supplementary Material which may be necessary under the Applicable Securities Laws, and the Company will prepare and file promptly at the request of the Underwriters any Supplementary Material which, in the opinion of the Underwriters, acting reasonably, may be necessary or advisable, and will otherwise comply with all legal requirements necessary, to continue to qualify the Offered Subscription Receipts for distribution in each of the Qualifying Jurisdictions.

(3) During the period commencing on the date hereof until the Underwriters notify the Company of the completion of the distribution of the Offered Subscription Receipts, the Company will promptly inform the Underwriters in writing of the full particulars of:

(a) any request of any Securities Commission for any amendment to any Offering Document or for any additional information in respect of the Offering or the Company;

(b) the receipt by the Company of any material communication, whether written or oral, from any Securities Commission, the TSXV or any other competent authority, relating to the Preliminary Prospectus, the Prospectus, the distribution of the Offered Subscription Receipts or the Company;

(c) any notice or other correspondence received by the Company from any Governmental Authority and any requests from such bodies for information, a meeting or a hearing relating to the Company, any of its subsidiaries, the Offering, the Concurrent Private Placement, the Acquisition, the LOI Acquisitons, the issue and sale of the Offered Subscription Receipts or any other event or state of affairs that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; or

(d) the issuance by any Securities Commission, the TSXV or any other competent authority, including any other Governmental Authority, of any order to cease or suspend trading or distribution of any securities of the Company (including Offered Subscription Receipts) or of the institution, threat of institution of any proceedings for that purpose or any notice of investigation that could potentially result in an order to cease or suspend trading or distribution of any securities of the Company (including Offered Subscription Receipts).

(4) In addition to the provisions of Sections 7(1), 7(2) and 7(3) hereof, the Company shall in good faith discuss with the Underwriters any circumstance, change, event or fact contemplated in Sections 7(1), 7(2) or 7(3) which is of such a nature that there is or could be reasonable doubt as to whether notice should be given to the Underwriters under Sections 7(1), 7(2) or 7(3) hereof and shall consult with the Underwriters with respect to the form and content of any Supplementary Material proposed to be filed by the Company, it being understood and agreed that any such Supplementary Material shall not be filed with any Securities Commission prior to the review and approval thereof by the Underwriters and their counsel, acting reasonably.

Section 8 Regulatory Approvals

(1) Prior to the filing of the Prospectus with the Securities Commissions, the Company shall file or cause to be filed with the TSXV all necessary documents and shall take or cause to be taken all necessary steps to ensure that the Company has obtained all necessary approvals for the Offered Subscription Receipts to be conditionally listed on the TSXV subject only to the Standard Listing Conditions.

(2) The Company will make all necessary filings and obtain all necessary regulatory consents and approvals (if any), and the Company will pay all filing, exemption and other fees required to be paid in connection with the transactions contemplated in this Agreement.

Section 9 Representations and Warranties of the Company

The Company represents and warrants to the Underwriters, and acknowledges that the Underwriters are relying on such representations and warranties in purchasing the Offered Subscription Receipts, that:

(a) the Company and each Principal Subsidiary has been duly incorporated, amalgamated or organized and is validly existing under the laws of the jurisdiction in which it was incorporated, amalgamated or organized, as the case may be, has all requisite corporate power and authority and is duly qualified to carry on its business as now conducted and to own, lease or operate its properties and assets and no steps or proceedings have been taken by the Company or by any person, voluntary or otherwise, requiring or authorizing its dissolution, liquidation or winding-up;

(b) the Company has all requisite corporate power and authority to enter into this Agreement, the Subscription Receipt Agreement, the Placement Subscription Agreement and the Placement Subscription Receipt Agreement and to carry out its obligations hereunder and thereunder;

(c) this Agreement, the Subscription Receipt Agreement, the Placement Subscription Agreement and the Placement Subscription Receipt Agreement have been duly authorized, executed and delivered by the Company and upon such execution and delivery by the Company constitute or will constitute a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting the rights of creditors generally and except as limited by the application of equitable principles when equitable remedies are sought, and by the fact that rights to indemnity, contribution and waiver, and the ability to sever unenforceable terms, may be limited by Applicable Laws;

(d) the Company has no subsidiaries other than the Principal Subsidiaries nor any investment in any person which, for the financial year ended December 31, 2019 accounted for or which, for the financial year ending December 31, 2020, is expected to account for, more than five percent of the consolidated assets or consolidated revenue of the Company or would otherwise be material to the business and affairs of the Company (on a consolidated basis);

(e) there are no outstanding obligations, liabilities or claims against any Principal Subsidiary that could reasonably be expected to result in a Material Adverse Effect;

(f) other than Xebec Adsorption (Shanghai) Co. Ltd., in respect of which the Company owns, directly or indirectly, 70% of the issued and outstanding shares and has the obligation to repurchase the remaining 30% of the issued and outstanding shares under certain circumstances, the Company owns, directly or indirectly, all of the issued and outstanding securities of each Principal Subsidiary, all of which securities are issued as fully paid and non-assessable, are free and clear of all mortgages, hypothecs, liens, charges, pledges, security interests, encumbrances, claims or demands whatsoever, and no person has any agreement, option, right or privilege (whether pre-emptive or contractual) capable of becoming an agreement, for the purchase from the Company or any Principal Subsidiary of any interest in any of the shares in the capital of any Principal Subsidiary;

(g) the Company is an Eligible Issuer and is a “reporting issuer” (as that term is defined under Applicable Securities Laws) or the equivalent in each of the Qualifying Jurisdictions and is in compliance, in all material respects, with all applicable requirements under Applicable Securities Laws, and not on the lists of defaulting reporting issuers maintained by the Securities Commissions in the Qualifying Jurisdictions;

(h) all consents, approvals, permits, authorizations or filings as may be required of the Company under Applicable Securities Laws necessary for the execution and delivery of this Agreement, the Subscription Receipt Agreement, the Placement Subscription Agreement and the Placement Subscription Receipt Agreement, the issuance and sale of the Offered Subscription Receipts and the Placement Subscription Receipts, the issuance of the Common Shares issuable upon exchange of the Offered Subscription Receipts and the Placement Subscription Receipts and the consummation of the transactions contemplated by this Agreement, have been made or obtained, as applicable, or will be made or obtained prior to the Closing Time, other than customary post-closing filings required to be submitted within the applicable timeframe pursuant to Applicable Securities Laws;

(i) the Company has taken all necessary corporate action to authorize and approve the issuance and sale of the Offered Subscription Receipts, and, as applicable, the delivery of certificates evidencing the Offered Subscription Receipts and Underlying Common Shares. The Offered Subscription Receipts and Underlying Common Shares have been authorized and reserved for issuance and, upon payment of the requisite consideration therefor, the Offered Subscription Receipts will, when issued in accordance with the terms of this Agreement and the Subscription Receipt Agreement, be validly issued as fully paid and non-assessable Common Shares;

(j) each of the execution and delivery of this Agreement and the performance by the Company of its obligations hereunder and thereunder, including the issue and sale of the Offered Subscription Receipts and the issuance of the Underlying Common Shares, do not and will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under (whether after notice or lapse of time or both): (i) any statute, rule or regulation in effect at the date hereof applicable to the Company including, without limitation, the Applicable Securities Laws, except as would not have a Material Adverse Effect; (ii) the articles, by-laws or resolutions of the directors and the shareholders of the Company which are in effect at the date hereof; (iii) any Material Agreement, any Debt Instrument, or any other indenture, contract, agreement, instrument, lease or other document to which the Company is a party or by which it is bound, except as would not have a Material Adverse Effect; or (iv) any judgment, decree or order binding the Company or the property or assets of the Company, except as would not have a Material Adverse Effect;

(k) the Company is in compliance with the timely and continuous disclosure obligations under the Applicable Securities Laws and, without limiting the generality of the foregoing, there has not occurred any adverse material change, financial or otherwise, in the assets, liabilities (contingent or otherwise), business, affairs, operations, capital, prospects or condition (financial or otherwise) of the Company since January 1, 2020, which has not been publicly disclosed on a non-confidential basis and all the statements set forth in the Disclosure Record are true, correct, and complete in all material respects and do not contain any misrepresentation as of the date of such statements and the Company has not filed any confidential material change reports since the date of such statements;

(l) since January 1, 2020, except as disclosed in the Disclosure Record or in the Prospectus, the Company has not approved, entered into any agreement in respect of, and does not have any knowledge of:

  (i) the purchase of any material property or assets or any interest therein or the sale, transfer or other disposition of any material property or assets or any interest therein currently owned, directly or indirectly, by the Company or any Principal Subsidiary whether by asset sale, transfer of securities or otherwise;

  (ii) the change of control (by sale or transfer of shares or sale of all or substantially all of the property and assets of the Company or any Principal Subsidiary or otherwise) of the Company or any Principal Subsidiary; or

  (iii) a proposed or planned disposition of shares by any shareholder who owns, directly or indirectly, 10% or more of the outstanding securities of the Company or any Principal Subsidiary;

(m) the Financial Statements incorporated by reference in the Prospectus have been prepared in accordance with IFRS, applied on a basis consistent with prior periods (other than in respect of the adoption of IFRS as described in the Financial Statements or except as may be expressly stated in the related notes thereto), and present fairly the financial position and condition of the Company and its subsidiaries, taken as a whole, as

at the dates thereof and for the periods indicated and reflect all assets, liabilities or obligations (absolute, accrued, contingent or otherwise) of the Company and its subsidiaries and the results of their operations and the changes in their financial position for the periods then ended and contain and reflect adequate provisions or allowance for all reasonably anticipated liabilities, expenses and losses of the Company and there has been no material change in the accounting policies or practices of the Company since January 1, 2020;

(n) to the Best of the Company's Knowledge, the Acquisition Financial Statements included in the Prospectus fairly present in all material respects, in accordance with IFRS, applied on a basis consistent with prior periods (other than in respect of the adoption of IFRS as described in the Acquisition Financial Statements and except as may be indicated in the notes and schedules thereto) the financial position and condition of HyGear as at the dates thereof and for the periods indicated and reflect all assets, liabilities or obligations (absolute, accrued, contingent or otherwise) of HyGear for the periods then ended;

(o) to the Best of the Company's Knowledge, the Acquisition Financial Information fairly present in all material respects the information purported to be shown thereby of HyGear as at the dates thereof and for the periods indicated;

(p) except as disclosed in the Prospectus, no person has any agreement, option, right or privilege (whether at law, pre-emptive, contractual or otherwise) capable of becoming an agreement for the purchase, acquisition, subscription for, issue of, or conversion into any of the unissued shares or other securities or convertible obligations of any nature of the Company other than pursuant to the provisions of this Agreement;

(q) there is no agreement in force or effect which in any manner affects or will affect the voting or control of any of the securities of the Company or any Principal Subsidiary;

(r) no legal or governmental proceedings are pending or, to the Best of the Company's Knowledge, threatened to which the Company or any Principal Subsidiary is a party or to which its property or assets is subject that could or would result in the revocation or modification of any certificate, authority, permit or license necessary to conduct the business now owned or operated by the Company or any Principal Subsidiary which, if the subject of an unfavourable decision, ruling or finding would have a Material Adverse Effect;

(s) neither the Company nor any Principal Subsidiary is in violation of its constating documents or in default in the performance or observance of any obligation, agreement, covenant or condition contained in any contract, indenture, debenture, credit facility, trust deed, mortgage, loan agreement, note, option, lease or other agreement or instrument to which it is a party or by which it or its property may be bound that could reasonably be expected to result in a Material Adverse Effect;

(t) any and all of the agreements and other documents and instruments pursuant to which the Company or any Principal Subsidiary holds its property and assets are valid and subsisting agreements, documents or instruments in full force and effect, enforceable against the Company or the Principal Subsidiaries, as applicable, in accordance with the terms thereof and as may be qualified by applicable civil or common law principles with respect to enforcement, neither the Company nor any Principal Subsidiary is in default of any of the provisions of any such agreements, documents or instruments nor has any such default been alleged, except where such defaults would not, individually or in the aggregate, have a Material Adverse Effect, and such properties and assets are in good standing under the applicable statutes and regulations of the jurisdictions in which they are situated, all leases, licences and claims pursuant to which the Company or any Principal Subsidiary derives its interests in such property and assets are in good standing

and there has been no default under any such lease, licence or claim that could reasonably be expected to result in a Material Adverse Effect;

(u) no counterparty to any obligation, agreement, covenant or condition contained in any contract or other instrument to which the Company or any Principal Subsidiary is a party is in default in the performance or observance thereof that could reasonably be expected to result in a Material Adverse Effect;

(v) neither the Company nor the Principal Subsidiaries are party to or bound or affected by any commitment, agreement or document containing any covenant which expressly limits the freedom of the Company or the Principal Subsidiaries to compete in any line of business, transfer or move any of their assets or operations or which materially or adversely affects the business practices, operations or condition of the Company or the Principal Subsidiaries;

(w) with respect to the premises of the Company or any Principal Subsidiary which is material to the Company and the Principal Subsidiaries on a consolidated basis and which the Company or any Principal Subsidiary occupies as tenant (the "**Premises**"), the Company or a Principal Subsidiary, as applicable, occupies the Premises and has the right to occupy and use the Premises in accordance with the leases relating thereto, and such leases pursuant to which the Company and/or any Principal Subsidiary, as applicable, occupies the Premises are in good standing and in full force and effect in all material respects;

(x) except as disclosed in the Prospectus, the Company or a Principal Subsidiary, as applicable, is, the owner or authorized licensee or sub-licensee of all the Intellectual Property necessary to conduct the business of the Company and each Principal Subsidiary, respectively, as such business is currently conducted and proposed to be conducted;

(y) to the Best of the Company's Knowledge, there has been no claim of any infringement or breach by any of the Company or its Principal Subsidiaries of any industrial, patent or Intellectual Property rights of any other person, nor has any of the Company or its Principal Subsidiaries received any notice, nor is the Company otherwise aware, that the use of the business names, trademarks, service marks and industrial, patent or copyright or other Intellectual Property of any of the foregoing infringes upon or breaches any industrial, patent, copyright or other Intellectual Property rights of any other person and the Company has no knowledge of any infringement or violation of any of their respective rights or the rights of any of the Company or its Principal Subsidiaries in such industrial, patent, copyright and other Intellectual Property and the Company is not aware of any state of facts which casts doubt on the validity or enforceability of any of such industrial, patent, copyright or other Intellectual Property rights;

(z) the Company and its Principal Subsidiaries own or possess adequate enforceable rights to use all material patents, patent applications, trademarks, service marks, copyrights, trade secrets, processes or formulations used or proposed to be used in the conduct of their respective businesses (collectively, the "**Proprietary Rights**") and, to the Best of the Company's Knowledge, none of the Company or its Principal Subsidiaries is infringing upon the rights of others with respect to its respective Proprietary Rights and no others have infringed such Proprietary Rights;

(aa) neither the marketing, licence, distribution, sale or use of any product or service currently marketed, licensed, distributed, sold or used by the Company violates any license or agreement of the Company with any person, which violation or the consequences thereof would alone or in the aggregate have a Material Adverse Effect or, to the Best of the Company's Knowledge, infringes upon the industrial or Intellectual Property rights of any

other person, whether common law or statutory, including rights relating to defamation, rights of privacy or publicity and contractual rights;

(bb) to the Best of the Company's Knowledge, the conduct of the business of the Company or of any Principal Subsidiary has not infringed, violated, misappropriated or otherwise conflicted with any material Intellectual Property right of any person;

(cc) neither the Company nor any Principal Subsidiary is a party to any action or proceeding, nor, to the Best of the Company's Knowledge, is or has any action or proceeding been threatened that alleges that any current or proposed conduct of their respective businesses have or will infringe, violate or misappropriate or otherwise conflict with any material Intellectual Property right of any person;

(dd) the Company and each of the Principal Subsidiaries have taken reasonable precautions and taken reasonable measures to protect and preserve the security and confidentiality of their trade secrets and other confidential information, and, to the Best of the Company's Knowledge, none of the trade secrets or other confidential information of the Company or any Principal Subsidiary are part of the public domain or knowledge, nor, to the Best of the Company’s Knowledge, have any trade secrets or confidential information been misappropriated by any person having an obligation to maintain such trade secrets or other confidential information in confidence for the Company or any Principal Subsidiary;

(ee) the Company and each of the Principal Subsidiaries has conducted and is conducting its business in material compliance with all Applicable Laws of each jurisdiction in which it carries on business and has not received a notice of non-compliance, and, to the Best of the Company’s Knowledge, does not know of any facts that could give rise to a notice of material non-compliance with any such laws;

(ff) neither the Company nor any of the Principal Subsidiaries are in violation of, in connection with the ownership, use, maintenance or operation of its property and assets, any Applicable Laws, permits, licences, certificates or approvals having the force of law, domestic or foreign, relating to environmental, health or safety matters which violations, either individually or in the aggregate, have a Material Adverse Effect;

(gg) the Company and each of its Principal Subsidiaries possesses such permits, licences, approvals, consents and other authorizations issued by Governmental Authorities (collectively, “**Governmental Licences**”) necessary to conduct the business now operated by it, except where such Governmental Licenses are not capable of being applied for or where the failure to so possess would not, individually or in the aggregate, have a Material Adverse Effect and all such Governmental Licences are valid and existing and in good standing. Each of the Company and its Principal Subsidiaries is in compliance with the terms and conditions of all such Governmental Licences, except where the failure to so comply would not, individually or in the aggregate, have a Material Adverse Effect;

(hh) except as disclosed in the Prospectus, the Company, either directly or through one of the Principal Subsidiaries, is the absolute legal and beneficial owner of, and has good and marketable title to, or leasehold interest in, all of the material property or assets, including vehicles, equipment, licenses, leases or other instruments or agreements granting legal rights to act as owners conferring the rights in respect of the material property or assets thereof as described in the Prospectus, free of all mortgages, hypothecs, liens, charges, pledges, security interests, encumbrances, claims or demands whatsoever, and no other rights are necessary for the conduct of the business of the Company and its Principal Subsidiaries as currently conducted or contemplated to be conducted; the Company knows of no claim or basis for any claim, or, to the Best of the Company’s Knowledge,

any threatened claim that might or could materially adversely affect the right of the Company or any Principal Subsidiary to use, transfer or otherwise exploit such property or assets; and the Company and the Principal Subsidiaries have no responsibility or obligation to pay any amounts to any person with respect to the property rights thereof;

(ii) upon (and assuming) completion of the Acquisition, the Company, directly or indirectly, shall have good and marketable title to all of the issued and outstanding shares of HyGear, free of all mortgages, hypothecs, liens, charges, pledges, security interests, encumbrances, claims or demands whatsoever;

(jj) the Company's material tangible assets are generally in good operating condition and repair, normal wear and tear excepted, and such assets (other than a de minimis amount that would not result in a Material Adverse Effect) are not in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost;

(kk) the Company and each of the Principal Subsidiaries are in material compliance with all Environmental Permits (as defined below), all applicable federal, provincial, state, municipal and local laws, statutes, ordinances, by-laws and regulations and orders, directives and decisions rendered by any ministry, department or administrative or regulatory agency, domestic or foreign, including laws, ordinances, regulations or orders, relating to the protection of the environment, occupational health and safety or the processing, use, treatment, storage, disposal, discharge, transport or handling of any pollutants, contaminants, chemicals or industrial, toxic or hazardous wastes or substances (the "**Environmental Laws**");

(ll) the Company and each of the Principal Subsidiaries have obtained all material licences, permits, approvals, consents, certificates, registrations and other authorizations under all applicable Environmental Laws (the "**Environmental Permits**") necessary as at the date hereof for the operation of the business carried on or proposed to be commenced by the Company and the Principal Subsidiaries, and each Environmental Permit is valid, subsisting and in good standing and neither the Company nor the Principal Subsidiaries are in material default or breach of any Environmental Permit and no proceeding is pending, or to the Best of the Company's Knowledge, threatened to revoke or limit any Environmental Permit;

(mm) neither the Company nor any of the Principal Subsidiaries have used, except in compliance with all Environmental Laws and Environmental Permits, any property or facility which it owns or leases, or previously owned or leased, to generate, manufacture, process, distribute, use, treat, store, dispose of, transport or handle any hazardous substance;

(nn) neither the Company nor any of the Principal Subsidiaries have received any notice of, or been prosecuted for an offence alleging, material non-compliance with any laws, ordinances, regulations and orders, including Environmental Laws, and neither the Company nor the Principal Subsidiaries have settled any allegation of non-compliance short of prosecution. To the Best of the Company's Knowledge, there are no orders or directions relating to environmental matters requiring any material work, repairs, construction or capital expenditures to be made with respect to any of the assets of the Company or the Principal Subsidiaries, nor has the Company or any of the Principal Subsidiaries received notice of any of the same;

(oo) there have been no past unresolved, pending or, to the Best of the Company's Knowledge, threatened claims, complaints, notices or requests for information received by the Company or the Principal Subsidiaries with respect to any alleged material violation of any law, statute, order, regulation, ordinance or decree; and no conditions

exist at, on or under any property now owned, operated or leased by the Company or the Principal Subsidiaries which, with the passage of time, or the giving of notice or both, would give rise to liability under any law, statute, order, regulation, ordinance or decree that, individually or in the aggregate, has or may reasonably be expected to have any Material Adverse Effect;

(pp) except as ordinarily or customarily required by applicable permits, neither the Company nor any of the Principal Subsidiaries have received any notice wherein it is alleged or stated that it is potentially responsible for a federal, provincial, state, municipal or local clean-up site or corrective action under any Law, including any Environmental Laws. The Company has not received any request for information in connection with any federal, state, municipal or local inquiries as to disposal sites;

(qq) AST Trust Company (Canada), at its principal office in Montreal, Québec, has been duly appointed as the registrar and transfer agent in respect of the Common Shares;

(rr) the Common Shares are listed and posted for trading on the TSXV;

(ss) neither the Company nor its Principal Subsidiaries has taken any action which would be reasonably expected to result in the delisting or suspension of the Common Shares on or from the TSXV and the Company is currently in material compliance with the rules and regulations of the TSXV;

(tt) except (i) as disclosed in the Prospectus, or (ii) as disclosed in the Disclosure Record, there are no actions, suits, judgments, investigations, inquiries or proceedings of any kind whatsoever outstanding (whether or not purportedly on behalf of the Company or any Principal Subsidiary), pending or, to the Best of the Company’s Knowledge, threatened against or affecting the Company or the Principal Subsidiaries at law or in equity or before or by any Governmental Authorities of any kind whatsoever and, to the Best of the Company’s Knowledge, there is no basis therefor and neither the Company nor any Principal Subsidiary is subject to any judgment, order, writ, injunction, decree, award, rule, policy or regulation of any Governmental Authority which, either separately or in the aggregate, could reasonably be expected to result in a Material Adverse Effect or would adversely affect the ability of the Company to perform its obligations under this Agreement;

(uu) the operations of the Company and the Principal Subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any Governmental Authority to which they are subject (collectively, the “**Applicable Anti-Money Laundering Laws**”) and no action, suit or proceeding by or before any Governmental Authority involving the Company with respect to Applicable Anti-Money Laundering Laws is, to the Best of the Company’s Knowledge, pending or threatened;

(vv) as at December 11, 2020, the authorized capital of the Company consists of an unlimited number of Common Shares, of which 106,293,642 Common Shares are issued and outstanding as fully paid and non-assessable, and an unlimited number of preferred shares, of which no preferred shares are issued and outstanding;

(ww) none of the directors, officers or employees of the Company or of any Principal Subsidiary, nor any person who owns, directly or indirectly, more than 10% of any class of securities of the Company, nor any associate or affiliate of any of the foregoing, has any material interest, direct or indirect, in any transaction or any proposed transaction

with the Company or any Principal Subsidiary which materially affects, is material to or will materially affect the Company on a consolidated basis;

(xx) the Company and each of the Principal Subsidiaries is in material compliance with all Applicable Laws respecting employment and employment practices, terms and conditions of employment, pay equity and wages and has not and is not engaged in any unfair labour practice;

(yy) no labour disturbance by or dispute with employees of the Company or any of its Principal Subsidiaries exists or is contemplated or, to the Best of the Company's Knowledge, threatened, and the Company is not aware of any existing or imminent labour disturbance by, or dispute with, the employees of any of its or its Principal Subsidiaries' principal suppliers, contractors or customers, except as would not have a Material Adverse Effect;

(zz) each plan for retirement, bonus, share purchase, profit sharing, stock option, deferred compensation, severance or termination pay, insurance, medical, hospital, dental, vision care, drug, sick leave, disability, salary continuation, legal benefits, unemployment benefits, vacation, incentive or otherwise contributed to, or required to be contributed to, by the Company and its Principal Subsidiaries for the benefit of any current or former director, officer, employee or consultant of the Company and its Principal Subsidiaries (the "**Employee Plans**") has been maintained in material compliance with its terms and with the requirements prescribed by any Applicable Laws that are applicable to such Employee Plans, in each case in all material respects and has been publicly disclosed to the extent required by Applicable Securities Laws. None of the Company and its Principal Subsidiaries has (or has had) any pension plan;

(aaa) all material accruals for unpaid vacation pay, premiums for unemployment insurance, health premiums, federal, state or provincial pension plan premiums, accrued wages, salaries and commissions and Employee Plan payments have been reflected in the books and records of the Company and its Principal Subsidiaries, as applicable;

(bbb) the assets of the Company and of each Principal Subsidiary and their businesses and operations are insured against loss or damage with insurers of recognized financial responsibility on a basis (including with respect to deductibles) consistent with insurance obtained by reasonably prudent participants in business comparable with that of the Company and its Principal Subsidiaries, and such coverage is in full force and effect, and the Company and the Principal Subsidiaries have not failed to promptly give any notice of any claim thereunder;

(ccc) all taxes (including income tax, capital tax, payroll taxes, employer health tax, workers' compensation payments, property taxes, customs and land transfer taxes), duties, royalties, levies, imposts, assessments, deductions, charges or withholdings and all liabilities with respect thereto including any penalty and interest payable with respect thereto (collectively, "**Taxes**") due and payable by the Company and the Principal Subsidiaries have been paid in all material respects, except for COVID-19 related extensions for paying taxes. All tax returns, declarations, remittances and filings required to be filed by the Company and each of the Principal Subsidiaries have been filed in all material respects with all appropriate Governmental Authorities, except for COVID-19 related extensions for filing, and all such returns, declarations, remittances and filings are complete and accurate in all material respects and no material fact or facts have been omitted therefrom which would make any of them misleading. To the Best of the Company's Knowledge, no examination of any tax return of the Company or a Principal Subsidiary is currently in progress and there are no issues or disputes outstanding with any Governmental Authority respecting any Taxes that have been paid, or may be payable, by the Company or any Principal Subsidiary that if determined adversely, would

result in the assertion by any Governmental Authority of any deficiency that would result in a Material Adverse Effect;

(ddd) the Company and the Principal Subsidiaries have established on their books and records reserves that are adequate for the payment of all Taxes not yet due and payable and there are no liens for Taxes on the assets of the Company or any Principal Subsidiary, and, to the Best of the Company's Knowledge, there are no audits pending of the tax returns of the Company or any Principal Subsidiary (whether federal, state, provincial, local or foreign) and there are no claims which have been or may be asserted relating to any such tax returns, which audits and claims, if determined adversely, would result in the assertion by any Governmental Authority of any deficiency that would result in a Material Adverse Effect;

(eee) on or prior to the Closing Time, the definitive form of certificate representing the Common Shares will be in proper form under the laws of Canada and will comply with the requirements of the TSXV and will not conflict with the constating documents of the Company;

(fff) within the last 12 months, the Company has not declared or paid any dividends or declared or made any other payments or distributions on or in respect of any of its securities and has not, directly or indirectly, redeemed, purchased or otherwise acquired any of its securities or agreed to do so or otherwise effected any return of capital with respect to such securities;

(ggg) there is not, in the constating documents of the Company or in any Material Agreement, Debt Instrument or any other indenture, contract, agreement, instrument, lease or other document to which the Company is a party or by which it is bound, any restriction upon or impediment to the declaration or payment of dividends by the directors of the Company or the payment of dividends by the Company to the holders of its Common Shares;

(hhh) no Securities Commission nor the TSXV has issued any order requiring trading in any of the Company's securities to cease or preventing the distribution of the Offered Subscription Receipts in any Qualifying Jurisdiction or the United States nor instituted proceedings for that purpose and to the Best of the Company's Knowledge, no such proceedings are pending or contemplated;

(iii) neither the Company nor any of the Principal Subsidiaries has received notice from any Governmental Authority of any jurisdiction in which it carries on a material part of its business, or owns or leases any material property, of any restriction on its ability to or of a requirement for it to qualify to, nor is it otherwise aware of any restriction on its ability to or of a requirement for it to qualify to, conduct its business as described in the Prospectus in such jurisdiction, except as would not result in a Material Adverse Effect;

(jjj) since January 1, 2020: (i) there has not been any adverse material change or change in material fact (actual, proposed, threatened or contemplated, but, for greater certainty, the impacts of the novel COVID-19 pandemic on the Company or its Principal Subsidiaries prior to the date hereof already disclosed in the Prospectus or the Disclosure Record shall not be considered) in the business, affairs, operations, capital, prospects, assets, liabilities or obligations (contingent or otherwise) of the Company or the Principal Subsidiaries; (ii) there has not been any adverse material change in the consolidated financial position of the Company; (iii) other than as disclosed in the Disclosure Record, there has not been any material change in the capital or long-term debt of the Company and its Principal Subsidiaries on a consolidated basis; and (iv) there has been no material transaction entered into by the Company or the Principal Subsidiaries, other than those disclosed in the Disclosure Record, the Prospectus, entered into in the ordinary course of business;

(kkk) the Company has established and maintains "disclosure controls and procedures" and "internal control over financial reporting" (each as defined in NI 52-109), as required by NI 52-109 and Applicable Securities Laws in Canada, and, to the Best of the Company's Knowledge, is not aware, and has not been advised by its auditors, of any "material weakness" (as defined in NI 52-109);

(lll) other than as disclosed in the Financial Statements, the Prospectus or in the Disclosure Record, there are no material off-balance sheet transactions, arrangements or obligations (including contingent obligations) of the Company or its Principal Subsidiaries with unconsolidated entities or other persons that could reasonably be expected to have a Material Adverse Effect;

(mmm) the Company and the Principal Subsidiaries are not party to any Debt Instrument or any agreement, contract or commitment to create, assume or issue any Debt Instrument other than as disclosed in the Disclosure Record or in the Prospectus and neither the Company nor any Principal Subsidiary has made any material loans to, or guaranteed the material obligations of, any person;

(nnn) neither the Company, the Principal Subsidiaries nor any other party thereto, is in default in any material respect in the observance or performance of any term, covenant or obligation to be performed by the Company or the Principal Subsidiaries or such other person under any Debt Instrument, Material Agreement or other instrument, document or arrangement to which the Company or the Principal Subsidiaries are a party or otherwise bound and all such contracts, agreements or arrangements are in good standing, and no event has occurred which with notice or lapse of time or both would constitute such a default by the Company, the Principal Subsidiaries or any other party with respect to any such agreement, instrument, document or arrangement, in any case which default, individually or in the aggregate, would have a Material Adverse Effect;

(ooo) other than the Company and its subsidiaries (including following completion of the Acquisition and the LOI Acquisitions), there is no person that is or will be entitled to demand the proceeds of the Offering;

(ppp) the Offering will not cause the Company, the Principal Subsidiaries or any other party thereto to become in default in any material respect in the observance or performance of any term, covenant or obligation to be performed by the Company or the Principal Subsidiaries or such other person under any Debt Instrument, Material Agreement or other instrument, document or arrangement (including all option agreements) to which the Company or the Principal Subsidiaries are a party or otherwise bound, including for greater certainty the Acquisition Agreement;

(qqq) since January 1, 2020, the Company has not made any acquisition that would be a "significant acquisition" for the purposes of Applicable Securities Laws, and other than the Acquisition, no "proposed acquisition" (including the LOI Acquisitions) by the Corporation has progressed to a state where a reasonable person would believe that the likelihood of the Company completing the acquisition is high and that, if completed by the Company at the date of the Prospectus, would be a "significant acquisition" for the purposes of Applicable Securities Laws, in each case, that would require the prescribed disclosure in the Prospectus pursuant to such laws. The Prospectus contains all financial information required in respect of the Acquisition pursuant to Applicable Securities Laws.

(rrr) the minute books of the Company for the two year period prior to the date hereof made available or to be made available to counsel for the Underwriters in connection with its due diligence investigation of the Company contain the constating documents of the Company from the date of incorporation and copies of all proceedings (or certified copies thereof) of the shareholders, the boards of directors and all committees of the boards of

directors of the Company for the two year period prior to the date hereof and there have been no other meetings, resolutions or proceedings of the shareholders, board of directors or any committees of the boards of directors of the Company not reflected in such minute books and other records during the two year period prior to the date hereof, other than those which are not material in the context of the Company as of the date hereof;

(sss) all of the information which has been prepared by the Company relating to the Company and the Principal Subsidiaries and their business, property and liabilities and provided to the Underwriters in connection with the preparation of the Prospectus, including all financial, marketing, sales and operational information provided to the Underwriters is, as of the date of such information, true and correct, taken as a whole (except to the extent amended or superseded by information subsequently provided to the Underwriters or publicly disclosed) and no fact or facts have been omitted therefrom which would make such information misleading;

(ttt) neither the Company nor, to the Best of the Company's Knowledge, its officers or directors are aware of any circumstances presently existing under which liability is or could reasonably be expected to be incurred by the Company under the Act;

(uuu) other than the Underwriters, there is no person acting or purporting to act at the request or on behalf of the Company that is entitled to any brokerage or finder's fee in connection with the transactions contemplated by this Agreement;

(vvv) other than the Principal Subsidiaries and as disclosed in the Prospectus or in the Disclosure Record, the Company does not own, directly or indirectly, or exercise Control or direction over, and has not agreed to acquire outstanding securities of any other corporation or options to acquire securities of any other corporation, other than marketable securities held in the ordinary course of business, or a participating interest in any partnership, joint venture or other business enterprise;

(www) the Company is not aware of any legislation, or proposed legislation (published by a legislative body), which it anticipates will have a Material Adverse Effect;

(xxx) there are no material judgments against the Company which are unsatisfied, nor are there any consent decrees or injunctions to which the Company is subject;

(yyy) neither the Company nor, to the Best of the Company's Knowledge, its Principal Subsidiaries or any of the employees or agents of the Company or the Principal Subsidiaries, has made any unlawful contribution or other payment to any official of, or candidate for, any federal, state, provincial or foreign office, or failed to disclose fully any contribution, in violation of any Applicable Law, or made any payment to any foreign, Canadian, United States or provincial or state governmental officer or official or other person charged with similar public or quasi-public duties, other than payments required or permitted by Applicable Laws;

(zzz) neither the Company nor any of the Principal Subsidiaries has any liabilities, direct or indirect, contingent or otherwise, not disclosed in the Prospectus which materially adversely affects the Company or the Principal Subsidiaries, on a consolidated basis, or would reasonably be expected to have a Material Adverse Effect;

(aaaa) except as disclosed in the Financial Information, the Company does not have any loans or other indebtedness outstanding, outside the normal course of business, which has been made to any of their respective shareholders, officers, directors or employees, past or present, or any person not dealing at arm's length with them;

(bbbb) as at the date of this Agreement, and except as disclosed in the Prospectus or the Disclosure Record, there has been no material closure or suspension to the operations of the Company or the Principal Subsidiaries as a result of the COVID-19 pandemic. The Company has been monitoring the COVID-19 pandemic and the potential impact on the Company, the Principal Subsidiaries and their respective operations, and has put appropriate control measures in place to support the health of all of its employees and surrounding communities where the Company and the Principal Subsidiaries operate while continuing to operate;

(cccc) a true copy of the Acquisition Agreement has been provided to the Underwriters (including all exhibits and schedules thereto) and, since its execution, the Acquisition Agreement has not been amended or terminated, nor have any terms and conditions thereof been waived;

(dddd) the representations and warranties of the Company in the Acquisition Agreement are true and correct in all material respects or in all respects if already qualified by materiality;

(eeee) the Company is not required by Applicable Laws (including Applicable Securities Laws), by any requirement of the TSX or the TSXV applicable to the Company or by its constating documents to obtain the approval of its shareholders in order to complete the Offering, the Acquisition or the Concurrent Private Placement;

(ffff) to the Best of the Company's Knowledge, no event has occurred or condition exists which will prevent the Concurrent Private Placement from being completed materially upon the terms and conditions set forth in the Placement Subscription Agreement;

(gggg) to the Best of the Company's Knowledge, no event has occurred, or condition exists which will, or could reasonably be expected to, prevent the Acquisition from being completed in accordance with the Acquisition Agreement prior to the Acquisition Outside Time;

(hhhh) to the Best of the Company's Knowledge, there has been no (i) actual or alleged breach or default by any party of any provisions of the Acquisition Agreement and no event, condition, or occurrence exists which after the notice or lapse of time (or both) would constitute a breach or default by any party to the Acquisition Agreement; or (ii) dispute, termination, cancellation, amendment or renegotiation of the Acquisition Agreement, and, to the knowledge of the Company, no state of facts giving rise to any of the foregoing exists; and

(iiii) the Company is not in possession of any undisclosed information about the Acquisition, the Acquisition Agreement or the LOI Acquisitions, which would be required to be disclosed in the Preliminary Prospectus, the Prospectus and any Prospectus Amendment to constitute full, true and plain disclosure of all material facts relating to the Company and the Offering as required by Applicable Securities Laws.

Section 10 Covenants of the Company

The Company covenants and agrees with the Underwriters that the Company:

(a) will advise the Underwriters, promptly after receiving notice thereof, of the time when the Preliminary Prospectus, the Prospectus and any Supplementary Material has been filed and Passport Receipts have been obtained and will provide evidence satisfactory to the Underwriters of each such filing and copies of such Passport Receipts;

(b) will advise the Underwriters, promptly after receiving notice or obtaining knowledge of: (i) the issuance by any Securities Commission of any order suspending or preventing the use of the Preliminary Prospectus, the Prospectus or any Supplementary Material or suspending or seeking to suspend the trading or distribution of the Offered Subscription receipts or the Underlying Common Shares; (ii) the suspension of the qualification of the Offered Subscription Receipts for offering or sale in any of the Qualifying Jurisdictions; (iii) the institution, threatening or contemplation of any proceeding for any such purposes; or (iv) any requests made by any Securities Commission for amending or supplementing the Preliminary Prospectus or the Prospectus or any Supplementary Material or for additional information, and will use its commercially reasonable efforts to prevent the issuance of any order or any suspension respectively referred to in (i) or (ii) above and, if any such order is issued, to obtain the withdrawal thereof promptly or if any such suspension occurs, to promptly remedy such suspension in accordance with this Agreement;

(c) will use its commercially reasonable efforts to remain, and to cause each of the Principal Subsidiaries to remain a corporation in good standing, and to be duly licensed, registered or qualified as an extra-provincial or foreign corporation or entity in all jurisdictions where the character of its properties owned or leased or the nature of the activities conducted by it make such licensing, registration or qualification necessary and to carry on its business in the ordinary course and in compliance in all material respects with all Applicable Laws of each such jurisdiction, provided that the Company shall not be required to comply with this Section 10(c) following the completion of a merger, amalgamation, arrangement, business combination or take-over bid pursuant to which the Company ceases to be a “distributing corporation” (within the meaning of the CBCA);

(d) will use its commercially reasonable efforts to maintain its status as a “reporting issuer” (or the equivalent thereof) not in default of the requirements of the Applicable Securities Laws of each of the Qualifying Jurisdictions which have such a concept and will comply with all of its obligations under Applicable Securities Laws for a period of 36 months following the Closing Date, provided that the Company shall not be required to comply with this Section 10(d) following the completion of a merger, amalgamation, arrangement, business combination or take-over bid pursuant to which the Company ceases to be a “distributing corporation” (within the meaning of the CBCA);

(e) will use its commercially reasonable efforts (including, without limitation, making application to the Securities Commissions of each Qualifying Jurisdiction for all consents, orders and approvals necessary) to maintain the listing of the Common Shares, as applicable, on the TSXV, the TSX or such other recognized stock exchange or quotation system as the Joint Bookrunners, on behalf of the Underwriters, may approve, acting reasonably, for a period of 24 months following the Closing Date, provided that the Company shall not be required to comply with this Section 10(e) following the completion of a merger, amalgamation, arrangement, business combination or take-over bid pursuant to which the Company ceases to be a “distributing corporation” (within the meaning of the CBCA);

(f) will ensure that the Offered Subscription Receipts and the Underlying Common Shares are, when issued, listed and posted for trading on the TSXV upon their date of issuance;

(g) will apply the net proceeds from the issue and sale of the Offered Subscription Receipts in accordance with the disclosure set out under the heading “Use of Proceeds” in the Prospectus;

(h) will deliver to the Underwriters, as soon as practicable after the Prospectus and any Supplementary Material are prepared, the U.S. Placement Memorandum, incorporating the Prospectus or Supplementary Material, as the case may be, prepared for use in

connection with the distribution of the Offered Subscription Receipts to purchasers in the United States in compliance with the provisions of Schedule “A”;

(i) prior to the earlier of: (i) the Option Closing Date pursuant to which the Over-Allotment Option has been exercised in full; or (ii) the expiry of the Over-Allotment Option, will promptly do, make, execute, deliver or cause to be done, made, executed or delivered, all such acts, documents and things as the Underwriters may reasonably require from time to time for the purpose of giving effect to the Offering and take all such steps as may be reasonably required within its power to implement to the full extent the provisions, and to satisfy the conditions, of this Agreement as it relates to the sale and issuance of Offered Subscription Receipts;

(j) will on or before the time of filing the Prospectus provide to the Underwriters a copy of the conditional listing approval of the Offered Subscription Receipts and the Underlying Common Shares on the TSXV;

(k) will forthwith notify the Underwriters of any breach of any covenant of this Agreement or any Ancillary Documents by the Company, or upon the Company becoming aware that any representation or warranty of the Company contained in this Agreement or any Ancillary Document was untrue or inaccurate in any material respect at the time such representation or warranty was made;

(l) will not, at any time prior to the closing of the Offering, halt the trading of the Common Shares on the TSXV without the prior written consent of the Joint Bookrunners;

(m) will use commercially reasonable efforts to cause the directors and officers of the Company to deliver at the Closing Time on the Closing Date, or, as applicable, the Option Closing Date, the agreements contemplated by Section 11(1)(n);

(n) prior to the earlier of: (i) the Option Closing Date pursuant to which the Over-Allotment Option has been exercised in full; or (ii) the expiry of the Over-Allotment Option, will make available management of the Company for meetings with investors as scheduled upon agreement between the Company and the Joint Bookrunners, acting reasonably;

(o) will use its commercially reasonable efforts to pursue the satisfaction of all conditions to the completion, and the closing, of the Acquisition in accordance with the Acquisition Agreement; and

(p) will not amend, terminate or grant any waiver under the lock-up agreements entered into with certain shareholders of HyGear in connection with the Acquisition.

Section 11 Conditions of Closing

(1) The obligation of the Underwriters to purchase, or act as agents for substituted purchasers to purchase, the Offered Subscription Receipts at the Closing Time on the Closing Date and to purchase any Additional Subscription Receipts at the Closing Time on an Option Closing Date shall be subject to the following:

(a) the Underwriters will receive at the Closing Time a legal opinion addressed to the Underwriters and their counsel dated and delivered on the Closing Date from the Company’s counsel, Osler, Hoskin & Harcourt LLP, and from local counsel (only in respect of matters governed by laws of the Qualifying Jurisdictions where the Company’s counsel is not qualified to practice), in each case in form and substance satisfactory to the Underwriters and their counsel, acting reasonably, with respect to the following

matters, subject to such reasonable assumptions and qualifications customary with respect to transactions of this nature as may be accepted by Underwriters' counsel:

(i) the Company is a "reporting issuer", or its equivalent, in each of the Qualifying Jurisdictions and it is not listed as in default of Applicable Securities Laws in any of the Qualifying Jurisdictions which maintain such a list;

(ii) the Company is a corporation duly incorporated and validly existing under the laws of Canada, and has all requisite corporate power, capacity and authority to carry on its business as now conducted and to own, lease and operate its property and assets as described in the Prospectus;

(iii) as to the authorized and issued capital of the Company;

(iv) the rights, privileges, restrictions and conditions attaching to the Offered Subscription Receipts and the Underlying Common Shares are accurately summarized in all material respects in the Prospectus;

(v) the Offered Subscription Receipts sold pursuant to the Offering have been duly and validly created and authorized and are issued and are outstanding as fully paid shares or securities (as the case may be) of the Company and are non-assessable;

(vi) the Over-Allotment Option has been duly and validly authorized and granted by the Company and the Additional Subscription Receipts and Underlying Common Shares issuable upon the exercise of the Over-Allotment Option have been duly and validly created, allotted and reserved for issuance by the Company and, upon the exercise of the Over-Allotment Option including receipt by the Company of payment in full therefor, the Additional Subscription Receipts and Underlying Common Shares will be duly and validly created, authorized, issued and outstanding as fully paid shares or securities (as the case may be) and are non-assessable;

(vii) the issuance of the Underlying Common Shares upon conversion of the Subscription Receipts in accordance with the Subscription Receipt Agreement has been duly authorized and reserved by all necessary action on the part of the Company, and the Underlying Common Shares will, upon their issuance in accordance with the terms of the Subscription Receipt Agreement, be duly and validly issued as fully-paid and non-assessable shares;

(viii) the Company has all necessary corporate power and capacity: (A) to execute and deliver this Agreement, the Subscription Receipt Agreement, the Placement Subscription Agreement and the Placement Subscription Receipt Agreement and to perform its obligations hereunder and thereunder; (B) to offer, issue, sell and deliver the Offered Subscription Receipts and the Placement Subscription Receipts; (C) to grant the Over- Allotment Option and offer, issue, sell and deliver the Additional Subscription Receipts issuable upon exercise of the Over-Allotment Option; and (D) to issue and deliver the Common Shares issuable upon conversion of the Subscription Receipts and the Placement Subscription Receipts in accordance with the Subscription Receipt Agreement and the Placement Subscription Receipt Agreement;

(ix) all necessary corporate action has been taken by the Company to authorize the execution and delivery of each of the Preliminary Prospectus, the Prospectus

and any Supplementary Material (in both the English and French languages) and the filing thereof with the Securities Commissions;

(x) the Company has duly authorized, executed and delivered, this Agreement, the Subscription Receipt Agreement, the Placement Subscription Agreement and the Placement Subscription Receipt Agreement and authorized the performance of its obligations hereunder and thereunder, including the offering, creation (as applicable), issue, sale and delivery of the Offered Subscription Receipts, the Placement Subscription Receipts, the grant of the Over-Allotment Option, the offering, creation (as applicable) issue, sale and delivery of Additional Subscription Receipts upon exercise of the Over-Allotment Option and the issuance of the Common Shares issuable upon conversion of the Subscription Receipts and the Placement Subscription Receipts in accordance with the Subscription Receipt Agreement and the Placement Subscription Receipt Agreement, and each of this Agreement, the Subscription Receipt Agreement, the Placement Subscription Agreement and the Placement Subscription Receipt Agreement constitutes a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, subject to appropriate qualifications that are customary of an offering of this nature;

(xi) the execution and delivery of this Agreement, the Subscription Receipt Agreement, the Placement Subscription Agreement and the Placement Subscription Receipt Agreement and the fulfillment of the terms hereof and thereof, do not result in a breach of (whether after notice or lapse of time or both) or constitute a default under (A) any of the terms, conditions or provisions of the articles of incorporation or amalgamation, as applicable, of the Company, (B) of which counsel is aware, resolutions of the shareholders or the board of directors (or any committee thereof) of the Company, or (C) the laws of the Province of Québec and the federal laws of Canada applicable therein;

(xii) the issuance and delivery of Underlying Common Shares issuable upon conversion of the Subscription Receipts, to holders of Subscription Receipts, in accordance with the Subscription Receipt Agreement is exempt from the prospectus requirements of Applicable Securities Laws;

(xiii) AST Trust Company (Canada) is the duly appointed registrar and transfer agent for the Common Shares;

(xiv) all necessary documents have been filed, all requisite proceedings have been taken, all approvals, permits and consents of the appropriate regulatory authority in each Qualifying Jurisdiction have been obtained, and all necessary legal requirements have been fulfilled, in order to qualify the distribution of the Offered Subscription Receipts, the Additional Subscription Receipts upon exercise of the Over-Allotment Option and the Underlying Common Shares in each of the Qualifying Jurisdictions through dealers who are registered under Applicable Securities Laws and who have complied with the relevant provisions of such Applicable Laws;

(xv) subject only to the Standard Listing Conditions, the Offered Subscription Receipts and the Underlying Common Shares have been conditionally listed or approved for listing on the TSXV;

(xvi) the documents (including the Preliminary Prospectus, the Prospectus and any Supplementary Material) to be delivered to purchasers in Québec comply with the laws of the Province of Québec relating to the use of the French language provided that a French version of such document has been provided;

(xvii) that the summary under the heading "Certain Canadian Federal Income Tax Considerations" in the Prospectus is a fair and adequate summary of the principal Canadian federal income tax considerations generally applicable to the acquisition, holding and disposition of the Offered Subscription Receipts, subject to the qualifications, assumptions, limitations and understandings set out in such summary; and

(xviii) confirming the statements under the heading "Eligibility for Investment" in the Prospectus, subject to the qualifications, assumptions and limitations set out under such heading.

In connection with such opinion, counsel to the Company may rely on the opinions of local counsel in the Qualifying Jurisdictions acceptable to counsel to the Underwriters, acting reasonably, as to the qualification for distribution of the Offered Subscription Receipts or opinions may be given directly by local counsel of the Company with respect to those items and as to other matters governed by the laws of jurisdictions other than the province or provinces in which the Company's counsel are qualified to practice and may rely, to the extent appropriate in the circumstances but only as to matters of fact, on certificates of officers of the Company and others;

(b) if any Offered Subscription Receipts or Additional Subscription Receipts are sold to purchasers in the United States, the Underwriters will receive, at the Closing Time, a favourable legal opinion dated the Closing Date from United States counsel to the Company to the effect that no registration of the Offered Subscription Receipts and the Additional Subscription Receipts, if any, and the Underlying Common Shares delivered upon conversion of the Subscription Receipts in accordance with the provisions of the Subscription Receipt Agreement, offered and sold to purchasers in the United States will be required under the U.S. Securities Act, such opinion to be in form and substance, acceptable to the Underwriters and their legal counsel, acting reasonably, it being understood that such counsel need not express its opinion with respect to any subsequent re-sale of such Offered Subscription Receipts, Additional Subscription Receipts or Underlying Common Shares;

(c) the Underwriters shall have received a certificate dated the Closing Date, signed by the President and Chief Executive Officer of the Company and the Chief Financial Officer of the Company, or such other senior officer(s) of the Company as may be acceptable to the Underwriters, with respect to:

(i) the articles and by laws of the Company;

(ii) resolutions of the Company's board of directors relevant to, among other things, the issue and sale of the Offered Subscription Receipts to be issued and sold by the Company and the authorization of this Agreement and the other agreements and transactions contemplated herein; and

(iii) the incumbency and signatures of signing officers of the Company;

(d) the Underwriters shall have received a certificate of status or the equivalent dated within two Business Days of the Closing Date, in respect of the Company and each Principal Subsidiary;

(e) the Company shall cause the Company's Auditors to deliver to the Underwriters a "bring down" comfort letter, addressed to the Underwriters and the board of directors of the Company, dated the Closing Date, in form and substance satisfactory to the Underwriters, acting reasonably, bringing forward to a date not more than two Business

Days prior to the Closing Date the information contained in the comfort letters referred to in Section 6(1)(d) hereof;

(f) the Company shall cause HyGear's Auditors to deliver to the Underwriters a "bring down" comfort letter, addressed to the Underwriters and HyGear, dated the Closing Date, in form and substance satisfactory to the Underwriters, acting reasonably, bringing forward to a date not more than two Business Days prior to the Closing Date the information contained in the comfort letters referred to in Section 6(1)(e) hereof;

(g) the Company shall deliver to the Underwriters, at the Closing Time, certificates dated the Closing Date or the Option Closing Date, as applicable, addressed to the Underwriters and signed by the President and Chief Executive Officer of the Company and the Chief Financial Officer of the Company, or such other senior officer(s) of the Company as may be acceptable to the Underwriters, certifying for and on behalf of the Company and without personal liability, to the effect that:

(i) the Company has complied in all material respects with all the covenants and satisfied all the terms and conditions of this Agreement on its part to be complied with and satisfied at or prior to the Closing Time;

(ii) the representations and warranties of the Company contained herein are true and correct in all material respects (except for those that are qualified by materiality or Material Adverse Effect which shall be true and correct in all respects) as at the Closing Time with the same force and effect as if made on and as at the Closing Time after giving effect to the transactions contemplated hereby;

(iii) the Final Receipt has been issued by the AMF for the Prospectus pursuant to the Passport System and, to the knowledge of such persons, no order, ruling or determination having the effect of ceasing the trading or suspending the sale of the Common Shares or other securities of the Company, or the Offered Subscription Receipts to be issued and sold by the Company has been issued and no proceedings for such purpose have been instituted or are pending or, to the knowledge of such officers, contemplated or threatened;

(iv) since the respective dates as of which information is given in the Prospectus or any Supplementary Material (A) there has been no material change (financial or otherwise) in the business, assets (including intangible assets), affairs, operations, prospects, liabilities (contingent or otherwise), capital, properties, condition (financial or otherwise) or results of operations or control of the Company and the Principal Subsidiaries (taken as a whole), and (B) no transaction has been entered into by the Company or any Principal Subsidiary which is material to the Company and the Principal Subsidiaries (taken as a whole), other than as disclosed in the Prospectus or in any Supplementary Material; and

(v) there has been no change in any material fact (which includes the disclosure of any previously undisclosed material fact) contained in the Prospectus which fact or change is, or may be, of such a nature as to render any statement in the Prospectus misleading or untrue in any material respect or which would result in a misrepresentation in the Prospectus or which would result in the Prospectus not complying with Applicable Securities Laws;

(h) the Underwriters shall have received copies of correspondence indicating that the Company has obtained all necessary approvals for the issuance of the Offered

Subscription Receipts and the Underlying Common Shares to be listed on the TSXV, subject only to the Standard Listing Conditions;

(i) the representations and warranties of the Company contained in this Agreement will be true and correct in all material respects (except for those that are qualified by materiality or Material Adverse Effect which shall be true and correct in all respects) at and as of the Closing Time on the Closing Date, and, if applicable, the Option Closing Date as if such representations and warranties were made at and as of such time and all agreements, covenants and conditions required by this Agreement to be performed, complied with or satisfied by the Company at or prior to the Closing Time on the Closing Date or the Option Closing Date, as applicable, will have been performed, complied with or satisfied prior to that time;

(j) the absence of any misrepresentations in the Offering Documents;

(k) the Company shall have received a Preliminary Receipt and a Final Receipt qualifying the Offered Subscription Receipts for distribution in the Qualifying Jurisdictions, and neither the Preliminary Receipt nor the Final Receipt shall be invalid or have been revoked or rescinded by any Securities Commission;

(l) the Underwriters shall have received a certificate from AST Trust Company (Canada) as to the number of Common Shares issued and outstanding as at the date immediately prior to the Closing Date;

(m) the Underwriters will have received such other certificates, opinions, agreements or closing documents in form and substance satisfactory to the Underwriters, acting reasonably, as the Underwriters may request, acting reasonably;

(n) the Underwriters shall have received a lock-up agreement from each of the directors and officers of the Company substantially in the form attached hereto as Schedule “B” subject to such changes as may be agreed to by the Joint Bookrunners, on behalf of the Underwriters; and

(2) The Concurrent Private Placement close concurrently with the Offering at the Closing time, materially upon the terms and conditions set forth in the Placement Subscription Agreement. The Company will use its commercially reasonable efforts to pursue the satisfaction of all conditions to the completion, and the closing, of the Concurrent Private Placement in accordance with the Placement Subscription Agreement.

Section 12 Closing

(1) The closing of the purchase and sale of the Offered Subscription receipts shall be completed at the Closing Time at the offices of Osler, Hoskin & Harcourt LLP in Montréal, Québec, or at such other place as the Joint Bookrunners, on behalf of the Underwriters, and the Company shall agree upon.

(2) At the Closing Time:

(a) the Company will deliver to the Joint Bookrunners, or as the Joint Bookrunners may direct, (i) via electronic deposit or represented by one or more certificates in definitive form, the Offered Subscription Receipts registered in the name of “CDS & Co.” or in such other name or names as the Joint Bookrunners may notify the Company in writing not less than two Business Days prior to the Closing Time or made and settled in CDS under the non-certificated inventory system and (ii) all further documentation as may be contemplated in this Agreement or as counsel to the Underwriters may reasonably

require; against payment by the Underwriters to the Company (in accordance with their respective entitlements) of the applicable purchase price for the Offered Subscription Receipts and any Additional Subscription Receipts being issued and sold under this Agreement, net of the Underwriters Fees and the Underwriters' expenses contemplated in Section 16 of this Agreement, by certified cheque, bank draft or wire transfer payable to or as directed by the Company not less than two Business Days prior to the Closing Time; and

(b) the obligation of the Underwriters to complete the purchase of any Additional Subscription Receipts under this Agreement, upon the exercise of the Over-Allotment Option, is subject to the receipt by the Underwriters of those documents contemplated, and the satisfaction of those conditions set forth, in Section 11 as the Underwriters may request, acting reasonably. In the event that the Company shall subdivide, consolidate, reclassify or otherwise change its Common Shares during the period in which the Over-Allotment Option is exercisable, appropriate adjustments will be made to the exercise price and to the number of Additional Subscription Receipts issuable on exercise thereof such that the Underwriters are entitled to arrange for the sale of the same number and type of securities that the Underwriters would have otherwise arranged for had they exercised such Over-Allotment Option immediately prior to such subdivision, consolidation, reclassification or change.

Section 13 Restrictions on Further Issues or Sales

During the period commencing on the date hereof and ending 90 days following the Closing Date, the Company will not, directly or indirectly, without the prior written consent of the Joint Bookrunners, on behalf of the Underwriters (such consent not to be unreasonably withheld or delayed), issue, sell, offer, grant an option or right in respect of, or otherwise dispose of, or enter into any derivative transaction that has the effect of any of the foregoing, or agree to or announce any intention to issue, sell, offer, grant an option or right in respect of, or otherwise dispose of, or enter into any derivative transaction that has the effect of any of the foregoing, any additional units of the Company, Common Shares or any securities convertible into or exchangeable for Common Shares, other than: (a) for purposes of directors', officers' or employee stock options and other share compensation arrangements, (b) upon the exercise of convertible securities, warrants, options, agreements, instruments or other arrangements outstanding as of the Closing Date, (c) pursuant to obligations in respect of existing agreements that have been disclosed to the Underwriters, (d) in accordance with the terms of the Acquisition Agreement, and (e) Underlying Common Shares issuable upon conversion of the Subscription Receipts issued pursuant to the Offering and the Concurrent Private Placement.

Section 14 Indemnification by the Company

(1) The Company shall fully indemnify and save harmless each of the Underwriters and their respective affiliates and their respective directors, officers, employees, shareholders, partners, advisors and agents and each other person, if any, controlling any of the Underwriters or their affiliates (collectively, the "**Indemnified Parties**" and individually an "**Indemnified Party**") from and against any and all losses, claims, actions, suits, proceedings, damages, liabilities or expenses of whatsoever nature or kind (excluding loss of profits), including the aggregate amount paid in reasonable settlement of any actions, suits, proceedings, investigations or claims and the reasonable fees, disbursements and taxes of their counsel (collectively, "**Losses**") that may be incurred in advising with respect to and/or defending any action, suit, proceeding, investigation or claim that may be made or threatened against any Indemnified Party by any third party other than the Company or in enforcing this indemnity (collectively, the "**Claims**" and individually, a "**Claim**") to which any Indemnified Party may become subject or otherwise involved in any capacity insofar as the Losses and/or Claims relate to, are caused by, result from, arise out of, or are in connection with, directly or indirectly:

(a) the breach of any representation or warranty of the Company made in any Ancillary Document or the failure of the Company to comply with any of its obligations in any Ancillary Document or any omission or alleged omission to state in any Ancillary Document any fact required to be stated in such document or necessary to make any statement in such document not misleading in light of the circumstances under which it was made;

(b) any information or statement (except any information or statement relating solely to the Underwriters or any of them and furnished in writing by the Underwriters or their legal counsel to the Company for use therein) in any of the Offering Documents (including, for greater certainty, the Documents Incorporated by Reference and any Subsequent Disclosure Documents) containing or being alleged to contain a misrepresentation or being or being alleged to be untrue, or based upon any omission or alleged omission to state in any of the Offering Documents any material fact (other than a material fact relating solely to the underwriters) required to be stated in those documents or necessary to make any of the statements therein not misleading in light of the circumstances in which they were made;

(c) any order made or any inquiry, investigation or proceeding instituted, threatened or announced by any court, securities regulatory authority, stock exchange or by any other competent authority, based upon any untrue statement, omission or misrepresentation or alleged untrue statement, omission or misrepresentation (except a statement, omission or misrepresentation relating solely to the Underwriters or any of them and furnished in writing by the Underwriters or their legal counsel to the Company for use therein) contained in any of the Offering Documents or any other document or material filed or delivered on behalf of the Company pursuant to this Agreement, preventing or restricting the trading in or the sale or distribution of the Offered Subscription Receipts or the Underlying Common Shares or any other securities of the Company;

(d) the non-compliance by the Company with any Applicable Securities Laws or other regulatory requirements or the rules of the TSXV including the Company's non-compliance with any statutory requirement to make any document available for inspection;

(e) any statement contained in the Disclosure Record which at the time and in the light of the circumstances under which it was made, contained or is alleged to have contained a misrepresentation or untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make any statement therein not misleading in light of the circumstances in which they were made;

(f) any misrepresentation or alleged misrepresentation made by the Company in connection with the Offering, whether oral or written, where such misrepresentation gives rise to any liability under any statute in any jurisdiction which is in force on the date of this Agreement; or

(g) any breach of any representation or warranty of the Company contained herein or the failure of the Company to comply with any of its covenants or other obligations contained herein or to satisfy any conditions contained herein required to be satisfied by the Company.

Any Underwriter shall not be entitled to the rights of indemnity contained in this Section 14 in connection with any Claim, if the Company has complied with the provisions of Section 6 and, if applicable Section 7, and the person asserting such Claim for which indemnity would otherwise be available was not delivered a copy of the Prospectus or the U.S. Placement Memorandum or was not provided with a copy of any Supplementary Material (or in the case of the U.S. Placement Memorandum, such applicable supplementary materials) which corrects any

misrepresentation contained in the Prospectus and/or the U.S. Placement Memorandum which is the basis for such Claim and which Prospectus, U.S. Placement Memorandum or Supplementary Material (or in the case of the U.S. Placement Memorandum, such applicable supplementary materials) is required under Applicable Securities Laws or this Agreement to be delivered to such person by such Underwriter or members of any Selling Firm appointed by such Underwriter.

(2) If any Claim contemplated by this Section 14 shall be asserted against any of the Indemnified Parties, or if any potential Claim contemplated by this Section 14 shall come to the knowledge of any of the Indemnified Parties, the Indemnified Party concerned shall promptly notify in writing the Company of the nature of such Claim (provided that any failure to so notify in respect of any Claim or potential Claim shall affect the liability of the Company under this Section 14 only if and to the extent that the Company is materially and adversely prejudiced by such failure). The Company shall, subject as hereinafter provided, be entitled (but not required) to assume the defence on behalf of the Indemnified Party of any such Claim; provided that the defence shall be through legal counsel selected by the Company and acceptable to the Indemnified Party, acting reasonably. An Indemnified Party shall have the right to employ separate counsel in any such Claim and participate in the defence thereof but the fees and expenses of such counsel shall be at the expense of the Indemnified Party unless:

(a) the employment of such counsel has been authorized by the Company;

(b) the Company fails to assume the defence of such Claim on behalf of the Indemnified Party within fourteen days of receiving notice of such suit;

(c) the Indemnified Party shall have been advised by counsel that representation of the Indemnified Party by counsel for the Company is inappropriate as a result of the potential or actual conflicting interests of those represented or that there may be legal defences available to the Indemnified Party or Indemnified Parties which are different from or in addition to those available to the Company or that the subject matter of the Claim may not fall within the foregoing indemnity or that there is a conflict of interest between the Company and the Indemnified Parties; or

(d) there are one or more defences available to the Indemnified Parties which are different from or in addition to those available to the Company;

in which case, the Company shall not have the right to assume the defence of such Claim on behalf of the Indemnified Party and the Company shall be liable to pay the reasonable fees and disbursements of counsel for such Indemnified Parties as well as the reasonable costs and out-of-pocket expenses of the Indemnified Party (including an amount to reimburse the Underwriter or Underwriters at their normal per diem rates for time spent by their respective directors, officers, employees or shareholders). Notwithstanding anything set forth herein, in no event shall the Company be liable for the fees or disbursements of more than one firm of legal counsel to an Indemnified Party in a particular jurisdiction in respect of any particular Claim or related set of Claims.

The Company will not, without each affected Indemnified Party's prior written consent, such consent not to be unreasonably withheld, admit any liability, settle, compromise, consent to the entry of any judgment in or otherwise seek to terminate any action, suit, proceeding, investigation or claim in respect of which indemnification may be sought hereunder unless in connection with any settlement, compromise or consent by the Company, such settlement, compromise or consent (i) includes an unconditional release of each Indemnified Party from any liabilities arising out of such action, suit, proceeding, investigation or claim (if an Indemnified Party is a party to such action) and (ii) does not include a statement as to, or an admission of fault, culpability or a failure to act by or on behalf of an Indemnified Party.

(3) The Company hereby acknowledges and agrees that, with respect to Sections 14 and 15 hereof, the Underwriters are contracting on their own behalf and as agents for their affiliates, and its and their respective directors, officers, employees, partners, shareholders, advisors, agents and each other person, if any, controlling any of the Underwriters or their affiliates (collectively, the "**Beneficiaries**"). In this regard, each of the Underwriters shall act as trustee for the Beneficiaries of the covenants of the Company under Sections 14 and 15 hereof with respect to the Beneficiaries and accepts these trusts and shall hold and enforce such covenants on behalf of the Beneficiaries.

(4) The Company hereby waives any right it may have of first requiring an Indemnified Party to proceed against or enforce any other right, power, remedy or security or claim payment from any other person before claiming under this indemnity. The Company also agrees that no Indemnified Party shall have any liability (whether direct or indirect, in contract or tort or otherwise) to the Company or any person asserting Claims on behalf of or in right of the Company for or in connection with the Offering except to the extent any Losses suffered by the Company are determined by a court of competent jurisdiction in a final judgment that has become non-appealable to have resulting from the gross negligence, fraud, illegal act or willful misconduct of such Indemnified Party.

(5) Notwithstanding anything to the contrary contained herein, the foregoing indemnity shall not apply to the extent that a court of competent jurisdiction in a final judgment that has become non-appealable shall determine that such Losses to which the Indemnified Party may be subject were caused by the gross negligence, fraudulent act or wilful misconduct of the Indemnified Party. For greater certainty, the Company and the Underwriters agree that they do not intend that any failure by the Underwriters to conduct such reasonable investigation as necessary to provide the Underwriters with reasonable grounds for believing the Offering Documents contained no misrepresentation shall constitute "gross negligence", "fraudulent act" or "wilful misconduct" for purposes of this Section 14 or otherwise disentitle the Underwriters from indemnification hereunder.

(6) The Company agrees that in case any legal proceeding shall be brought against the Company and/or the Underwriters by any governmental commission or regulatory authority or any stock exchange or other entity having regulatory authority, either domestic or foreign, or if any such commission or authority shall investigate the Company and/or the Indemnified Parties and any Indemnified Parties shall be required to testify in connection therewith or shall be required to respond to procedures designed to discover information regarding, in connection with, or by reason of the performance of professional services rendered to the Company by the Underwriters, the Indemnified Parties shall have the right to employ their own counsel in connection therewith, and the reasonable fees and expenses of such counsel as well as the reasonable costs (including an amount to reimburse the Underwriters for time spent by the Indemnified Parties in connection therewith) and out-of-pocket expenses incurred by Indemnified Parties in connection therewith shall be paid by the Company as they occur. The Company agrees to reimburse the Underwriters for the time spent by their personnel in connection with any Claim at their normal per diem rates.

(7) The rights to indemnification provided in this Section 14 shall be in addition to and not in derogation of any other rights which the Underwriters may have by statute or otherwise at law.

Section 15 Contribution

(1) In order to provide for just and equitable contribution in circumstances in which the indemnity provided in Section 14 hereof would otherwise be available in accordance with its terms but is, for any reason held to be illegal, unavailable to or unenforceable by the Indemnified Parties or enforceable otherwise than in accordance with its terms, the Company and the Underwriters shall contribute to the aggregate of all Losses of the nature contemplated in Section 14 hereof and suffered or incurred by the Indemnified Parties (a) in such proportion as is appropriate to reflect

not only the relative benefits received by the Company, on the one hand, and the Underwriters on the other hand, from the distribution of the Offered Subscription Receipts, or (b) if the allocation provided by (a) is not permitted by Applicable Law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (a) but also the relative fault of the Company, on the one hand, and the Underwriters, on the other hand, in respect of such Losses; provided that the Company shall in any event contribute to the amount paid or payable by the Indemnified Parties as a result of such Claim in excess of such amount over the amount actually received by the Underwriters or any other Indemnified Party under this Agreement and further provided that the Underwriters shall not in any event be liable to contribute, in the aggregate, any amount in excess of such total Underwriters Fees or any portion thereof actually received by the Underwriters. However, no party who has engaged in any fraud, fraudulent misrepresentation or wilful misconduct as determined by a court of competent jurisdiction in a final non-appealable judgment shall be entitled to claim contribution from any person who has not engaged in such fraud, fraudulent misrepresentation or wilful misconduct.

(2) The relative benefits received by the Company, on the one hand, and the Underwriters, on the other hand, shall be deemed to be in the same ratio as the total proceeds from the Offering of the Offered Subscription Receipts (net of the Underwriters Fees payable to the Underwriters but before deducting expenses) received by the Company is to the Underwriters Fees actually received by the Underwriters. The relative fault of the Company, on the one hand, and of the Underwriters, on the other hand, shall be determined by reference to, among other things, whether the matters or things referred to in Section 14 which resulted in such Claims and/or Losses relate to information supplied by or steps or actions taken or done or not taken or not done by or on behalf of the Company or to information supplied by or steps or actions taken or done or not taken or not done by or on behalf of the Underwriters and the relative intent, knowledge, access to information and opportunity to correct or prevent such statement, omission or misrepresentation, or other matter or thing referred to in Section 14. The amount paid or payable by an Indemnified Party as a result of the Claims and/or Losses referred to above shall be deemed to include any legal or other expenses reasonably incurred by such Indemnified Party in connection with investigating or defending any such Claims and/or Losses, whether or not resulting in an action, suit, proceeding or claim. The parties to this Agreement agree that it would not be just and equitable if contribution pursuant to this Section 15 were determined by any method of allocation which does not take into account the equitable considerations referred to in this Section 15.

(3) If the Company may be held to be entitled to contribution from the Underwriters under the provisions of any statute or at law, the Company shall be limited to contribution in an aggregate amount not exceeding the lesser of:

(a) the portion of the full amount of the Losses giving rise to such contribution for which the Underwriters are responsible, as determined in Section 14(1); and

(b) the amount of the aggregate Underwriters Fees actually received by the Underwriters from the Company under this Agreement.

(4) The rights to contribution provided in this Section 15 shall be in addition to and not in derogation of any other right to contribution which the Indemnified Parties may have by statute or otherwise at law.

(5) If an Indemnified Party has reason to believe that a claim for contribution may arise, the Indemnified Party shall give the Company notice thereof in writing, but failure to so notify shall not relieve the Company of any obligation which it may have to the Indemnified Party under this Section 15 provided that the Company is not materially and adversely prejudiced by such failure, and the right of the Company to assume the defence of such Indemnified Party shall apply as set out in Section 14 hereof, mutatis mutandis.

Section 16 Expenses

(1) Whether or not the purchase and sale of the Offered Subscription Receipts shall be completed, all fees and expenses (including sales taxes, if applicable) of or incidental to the creation, issuance and delivery of the Offered Subscription Receipts and of or incidental to all matters in connection with the transactions herein set out shall be borne by the Company including, without limitation:

(a) all fees and expenses of or incidental to the creation, issue, sale or distribution of the Offered Subscription Receipts or Underlying Common Shares and the filing of the Preliminary Prospectus, the Prospectus and any Supplementary Material;

(b) the fees and expenses of the Company's Auditors and the transfer agent of the Company (including disbursements and non-creditable sales taxes, if and as applicable, on all of the foregoing);

(c) all costs incurred in connection with the preparation, printing and translation of the Preliminary Prospectus, the Prospectus and any Supplementary Material contemplated hereunder and otherwise relating to the Offering; and

(d) legal fees of the Underwriters' counsel up to an amount of $50,000 (with the remainder being borne by the Underwriters) (before disbursements and applicable taxes) as well as reasonable out-of-pocket expenses incurred by the Underwriters.

Section 17 All Terms to be Conditions

The Company agrees that the conditions contained in Section 11 will be complied with insofar as the same relate to acts to be performed or caused to be performed by the Company and that it will use its commercially reasonable efforts to cause all such conditions to be complied with. Any breach or failure to comply with or satisfy any of the conditions set out in Section 11 shall entitle the Underwriters to terminate their obligation to purchase the Offered Subscription Receipts, by written notice to that effect given to the Company at or prior to the Closing Time. It is understood that the Underwriters may waive, in whole or in part, or extend the time for compliance until no later than 42 days from the date of the Final Receipt with, any of such terms and conditions without prejudice to the rights of the Underwriters in respect of any such terms and conditions or any other or subsequent breach or non-compliance, provided that to be binding on the Underwriters any such waiver or extension must be in writing.

Section 18 Termination by Underwriters in Certain Events

(1) Each Underwriter shall also be entitled to terminate its obligation to purchase the Offered Subscription Receipts by written notice to that effect given to the Company at or prior to the Closing Time in any of the following circumstances:

(a) (i) any inquiry, action, suit, investigation or other proceeding (whether formal or informal) is commenced, announced or threatened or any order is made or issued under or pursuant to any federal, provincial, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality (including without limitation the TSXV, the TSX or any securities regulatory authority), (B) there is a change in any law, rule or regulation, or the interpretation or administration thereof, or (C) an order shall have been made or threatened to cease or suspend trading in the Common Shares by any securities regulatory authority or similar regulatory or judicial authority or the TSXV or the TSX, which, in the reasonable opinion of the Underwriters, operates to prevent, restrict or otherwise materially adversely affect the distribution or trading of the Common Shares or any other securities of the Company, including the Offered Subscription Receipts and the Underlying Common Shares;

(b) there shall occur any material change, actual, anticipated or threatened, or any change in a material fact, or there shall exist or be discovered any change in any material fact which in the reasonable opinion of the Underwriters has or could reasonably be expected to have a significant effect on the market price or value of the Common Shares;

(c) there should develop, occur or come into effect or existence any event, action, state, or condition or any action, law or regulation, inquiry, including, without limitation, terrorism, accident or major financial, political or economic occurrence of national or international consequence, including as a result of the COVID-19 pandemic to the extent there are any material adverse developments related thereto after the date hereof, or any action, government, law, regulation, inquiry or other occurrence of any nature, which, in the reasonable opinion of the Underwriters, materially adversely affects or involves, or may materially adversely affect or involve, the financial markets in Canada or the U.S. or the business, operations or affairs of the Company and its subsidiaries, taken as a whole, or the market price or value of the Common Shares;

(d) the Company is in breach of any material term, condition or covenant of this Agreement or any representation or warranty given by the Company in this Agreement is or becomes false in any material respect or the Company is in breach of, default under, non-compliance or alleged non-compliance of any material requirements of Applicable Securities Laws, including any rules or regulations of the TSXV or, to the extent applicable to the Company, the TSX;

(e) the due diligence investigations performed by each of the Underwriters or its representatives reveal any previously undisclosed material information or fact, which, in the sole opinion of the Underwriters (or any one of them), acting reasonably, is materially adverse to the Company or its business, or in the sole opinion of the Underwriters (or any one of them), acting reasonably, would reasonably be expected to materially adversely affect the price or value of the Offered Subscription Receipts or Common Shares; or

(f) any Underwriter and the Company agree in writing to terminate this Agreement in relation to such Underwriter.

(2) If this Agreement is terminated by any of the Underwriters pursuant to Section 18(1), there shall be no further liability on the part of such Underwriter, or on the part of the Company to such Underwriter except in respect of any liability which may have arisen or may thereafter arise under Sections 14, 15 and 16.

(3) The right of the Underwriters or any of them to terminate their respective obligations under this Agreement is in addition to such other remedies as they may have in respect of any default, act or failure to act of the Company in respect of any of the matters contemplated by this Agreement. A notice of termination given by one Underwriter under this Section 18 shall not be binding upon the other Underwriters.

Section 19 Obligations of the Underwriters

(1) The obligations of the Underwriters under this Agreement shall be several in all respects and not joint or joint and several. For greater certainty, the obligations of the Underwriters to purchase the Offered Subscription Receipts shall be several and not joint or joint and several, and shall be limited to the percentages of the aggregate number of Offered Subscription Receipts to be purchased set out opposite the names of the Underwriters respectively below:

Desjardins Securities Inc.	35.0%
TD Securities Inc.	35.0%
National Bank Financial Inc.	10.0%

Canaccord Genuity Group Inc.	7.5%
Raymond James Ltd.	7.5%
Beacon Securities Limited	2.5%
Stifel Nicolaus Canada Inc.	2.5%

(2) If an Underwriter does not complete the purchase and sale of the Offered Subscription Receipts which that Underwriter has agreed to purchase under this Agreement (other than in accordance with Section 18 of this Agreement) (the "**Defaulted Subscription Receipts**"), the Joint Bookrunners may delay the Closing Date for not more than five days without the prior written consent of the Company, and the remaining Underwriters (the "**Continuing Underwriters**") will be entitled, at their option, to purchase all but not less than all of the Defaulted Subscription Receipts, provided, however, that in the event that the percentage of the total number of Defaulted Subscription Receipts which one or more of the Underwriters has failed or refused to purchase is not more than 10% of the total number of the Offered Subscription Receipts which the Underwriters have agreed to purchase, the Continuing Underwriters shall be obligated severally to purchase on a pro rata basis (or such other basis as such other Underwriters may agree) all, but not less than all, of the Offered Subscription Receipts which would otherwise have been purchased by the one or more Underwriters which failed or refused to purchase. If the Continuing Underwriters are not required to and do not elect to purchase the Defaulted Subscription Receipts:

(a) the Continuing Underwriters will not be obliged to purchase any of the Offered Subscription Receipts;

(b) the Company will not be obliged to sell less than all of the Offered Subscription Receipts; and

(c) the Company will be entitled to terminate its obligations under this Agreement, in which event there will be no further liability on the part of the Continuing Underwriters, or on the part of the Company except pursuant to the provisions of Sections 14, 15 and 16 of this Agreement.

(3) Subject to compliance with Applicable Securities Laws, without affecting the firm obligation of the Underwriters to purchase from the Company 21,552,000 Offered Subscription Receipts at the Purchase Price in accordance with this Agreement, after the Underwriters have made reasonable effort to sell all of the Offered Subscription Receipts at the Purchase Price, the Offering Price may be decreased by the Underwriters and further changed from time to time to an amount not greater than the Offering Price specified herein. Such decrease in the Offering Price will not affect the Underwriters Fee ($0.29 per Offered Subscription Receipt) to be paid by the Company to the Underwriters, and it will not decrease the amount of the net proceeds of the Offering to be paid by the Underwriters to the Company ($5.51 per Offered Subscription Receipt), before deducting expenses of the Offering. The Underwriters will inform the Company if the Offering Price is decreased.

Section 20 Over-Allotment

In connection with the distribution of the Offered Subscription Receipts, the Underwriters and members of their selling group (if any) may over-allot or effect transactions which stabilize or maintain the market price of the Common Shares at levels above those which might otherwise prevail in the open market, in compliance with Applicable Securities Laws (including, for greater certainty, Regulation M under the U.S. Exchange Act). Those stabilizing transactions, if any, may be discontinued at any time.

Section 21 Notices

Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be delivered to,

in the case of the Company, to:

Xebec Adsorption Inc.
730 Boulevard Industriel
Blainville, Québec J7C 3V4

Attention: Kurt Sorschak, Chairman, President and Chief Executive Officer
E-mail: ksorschak@xebecinc.com

with a copy of any such notice (which shall not constitute notice to the Company) to:

Osler, Hoskin & Harcourt, LLP
Suite 2100, 1000 rue De La Gauchetière W.
Montreal, Québec H3B 4W5

Attention: François Paradis
E-mail: fparadis@osler.com

in the case of the Underwriters, to:

Desjardins Securities Inc.
Suite 300, 1170 Peel Street
Montréal, Québec H3B 0A9

Attention: François Carrier
E-mail: francois.carrier@desjardins.com

and

TD Securities Inc.
Suite 2315, 1 Place Ville Marie
Montréal, Québec H3B 3M5

Attention: Abe Adham
E-mail: Abe.Adham@tdsecurities.com

with a copy of any such notice (which shall not constitute notice to the Underwriters) to:

Stikeman Elliott LLP
Suite 4100, 1155 Boulevard René-Lévesque W.
Montréal, Québec H3B 3V2

Attention: Maxime Turcotte
E-mail: mturcotte@stikeman.com

The Company and the Underwriters may change their respective addresses for notice by notice given in the manner aforesaid. Any such notice or other communication shall be in writing, and unless delivered personally to the addressee or to a responsible officer of the addressee, as applicable, shall be given by fax and shall be deemed to have been given when: (i) in the case of a notice delivered personally to a

responsible officer of the addressee, when so delivered; and (ii) in the case of a notice delivered or given by fax on the first Business Day following the day on which it is sent.

Section 22 Relationship between the Company and the Underwriters.

(1) The Company acknowledges and agrees that the purchase and sale of the Offered Subscription Receipts pursuant to this Agreement is an arm's-length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other. In connection with the services described herein, the Underwriters shall act as independent contractors, and any duties of the Underwriters arising out of this Agreement shall be owed solely to the Company. The Company acknowledges that each of the Underwriters is a securities firm that is engaged in securities trading and brokerage activities, as well as providing investment banking and financial advisory services, which may involve services provided to other companies engaged in businesses similar or competitive to the business of the Company and that the Underwriters shall have no obligation to disclose such activities and services to the Company. The Company acknowledges and agrees that in connection with all aspects of the engagement contemplated hereby, and any communications in connection therewith, the Company, on the one hand, and the Underwriters and any of their respective affiliates through which they may be acting, on the other hand, will have a business relationship that does not create, by implication or otherwise, any fiduciary duty on the part of the Underwriters or such affiliates, and each party hereto agrees that no such duty will be deemed to have arisen in connection with any such transactions or communications. The Company acknowledges and agrees that it waives, to the fullest extent permitted by law, any claims the Company and its affiliates may have against any of the Underwriters for breach of fiduciary duty or alleged breach of fiduciary duty and agrees that the Underwriters shall have no liability (whether direct or indirect) to the Company or any of its affiliates in respect of such a fiduciary duty claim or to any person asserting a fiduciary duty claim on behalf of or in right of the Company, including stockholders, employees or creditors of the Company. Information which is held elsewhere within any of the Underwriters, but of which none of the individuals in the investment banking department or division of any of the Underwriters involved in providing the services contemplated by this Agreement actually has knowledge (or without breach of internal procedures can properly obtain) will not for any purpose be taken into account in determining any of the responsibilities of the Underwriters to the Company under this Agreement. The Company acknowledges and agrees that it has consulted its own legal and financial advisors to the extent deemed appropriate

(2) National Bank Financial Inc. or an affiliate thereof, may own or control an equity interest in TMX Group Limited ("**TMX Group**") and may have a nominee director serving on the TMX Group's board of directors. As such, each of such investment dealer may be considered to have an economic interest in the listing of securities on any exchange owned or operated by TMX Group, including the TSX, the TSX Venture Exchange and the Alpha Exchange. No person or company is required to obtain products or services from TMX Group or its affiliate as a condition of any such dealer supplying or continuing to supply a product or service.

Section 23 Survival

All warranties, representations, covenants (including indemnification obligations) and agreements of the Company herein contained or contained in any Ancillary Document shall survive the purchase by the Underwriters or substituted purchasers of the Offered Subscription Receipts and shall continue in full force and effect for such maximum period of time as the Underwriters or any substituted purchaser of Offered Subscription Receipts may be entitled to commence an action, or exercise a right of rescission, with respect to a misrepresentation contained or incorporated by reference in the Offering Documents pursuant to, as applicable, Applicable Securities Laws, civil or common law rights or otherwise, for the benefit of the Underwriters, regardless of any investigation by or on behalf of the Underwriters with respect thereto.

Section 24 Miscellaneous

(1) Except with respect to Sections 14, 15, 18 and 19, all transactions and notices on behalf of the Underwriters hereunder or contemplated hereby may be carried out or given on behalf of the Underwriters by the Joint Bookrunners and the Joint Bookrunners shall in good faith discuss with the other Underwriter the nature of any such transactions and notices prior to giving effect thereto or the delivery thereof, as the case may be.

(2) This Agreement shall enure to the benefit of, and shall be binding upon, the Underwriters and the Company and their respective successors and legal representatives, provided that no party may assign this Agreement or any rights or obligations under this Agreement, in whole or in part, without the prior written consent of the other party (provided that the Joint Bookrunners shall represent the Underwriters in this regard).

(3) Subject to the engagement letter between the Company and the Joint Bookrunners dated October 28, 2020, this Agreement, including all schedules to this Agreement, constitutes the entire agreement between the parties relating to its subject matter and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to such subject matter, including the letter agreements between the Company and the Joint Bookrunners dated December 8, 2020 and December 9, 2020. This Agreement may only be amended, supplemented, or otherwise modified by written agreement signed by all of the parties.

(4) The Company acknowledges and agrees that all written and oral opinions, advice, analyses and materials provided by the Underwriters in connection with this Agreement and their engagement hereunder are intended solely for the Company’s benefit and the Company’s internal use only with respect to the Offering and the Company agrees that no such opinion, advice, analysis or material will be used for any other purpose whatsoever or reproduced, disseminated, quoted from or referred to in whole or in part at any time, in any manner or for any purpose, without the Underwriters’ prior written consent in each specific instance. Any advice or opinions given by any of the Underwriters hereunder will be made subject to, and will be based upon, such assumptions, limitations, qualifications, and reservations as such Underwriter(s), in its/their sole judgment, deems necessary or prudent in the circumstances. The Underwriters expressly disclaim any liability or responsibility by reason of any unauthorized use, publication, distribution of or reference to any oral or written opinions or advice or materials provided by the Underwriters or any unauthorized reference to any of the Underwriters or this Agreement.

(5) The Company acknowledges that the Underwriters are full service securities firms engaged in securities trading and brokerage activities as well as providing investment banking and financial advisory services and that in the ordinary course of trading and brokerage activities, the Underwriters and/or any of their affiliates at any time may hold long or short positions, and may trade or otherwise effect transactions, for their own account or the accounts of customers, in debt or equity securities of the Company or any other company that may be involved in a transaction or related derivative securities.

(6) Neither the Company nor any of the Underwriters shall make any public announcement in connection with the Offering, except if the other party (provided that the Joint Bookrunners shall represent the Underwriters in this regard) has consented to such announcement or the announcement is required by Applicable Securities Laws. In such event, the party proposing to make the announcement will provide the other party with a reasonable opportunity, in the circumstances, to review a draft of the proposed announcement and to provide comments thereon.

(7) No waiver of any provision of this Agreement will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the party to be bound by the waiver. A party’s failure or delay in exercising any right under this Agreement will

not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right it may have.

(8) If any provision of this Agreement is determined to be illegal, invalid or unenforceable by an arbitrator or any court of competent jurisdiction from which no appeal exists or is taken, that provision will be severed from this Agreement and the remaining provisions will remain in full force and effect.

(9) This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Québec and the federal laws of Canada applicable therein and the parties submit to the non-exclusive jurisdiction of the courts of the Province of Québec.

(10) Time shall be of the essence hereof and, following any waiver or indulgence by any party, time shall again be of the essence hereof.

(11) The words, “hereunder”, “hereof” and similar phrases mean and refer to the Agreement formed as a result of the acceptance by the Company of this offer by the Underwriters to purchase the Offered Subscription Receipts.

(12) Each of the parties hereto shall be entitled to rely on delivery of a facsimile or portable document format copy of this Agreement and acceptance by each such party of any such facsimile or portable document format copy shall be legally effective to create a valid and binding agreement between the parties hereto in accordance with the terms hereof.

(13) This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement.

[Remainder of page intentionally left blank]

If this letter accurately reflects the terms of the transactions which we are to enter into and are agreed to by you, please communicate your acceptance by executing the enclosed copies of this letter where indicated and returning them to us.

Yours very truly,

DESJARDINS SECURITIES INC.

By: *(s) François Carrier*
Name: François Carrier
Title: Managing Director, Head of Investment Banking

TD SECURITIES INC.

By: *(s) Abe Adham*
Name: Abe Adham
Title: Managing Director and Group Head

NATIONAL BANK FINANCIAL INC.

By: *(s) Thomas Bachand*
Name: Thomas Bachand
Title: Director

CANACCORD GENUITY GROUP INC.

By: *(s) Pierre Fleurent*
Name: Pierre Fleurent
Title: Senior Advisor

RAYMOND JAMES LTD.

By: *(s) Russell Green*
Name: Russell Green
Title: Managing Director

BEACON SECURITIES LIMITED

By: *(s) Mario Maruzzo*
Name: Mario Maruzzo
Title: Managing Director

STIFEL NICOLAUS CANADA INC.

By: *(s) Derek Lithwick*
Name: Derek Lithwick
Title: Director

Accepted and agreed to by the undersigned as of the date of this letter first written above.

XEBEC ADSORPTION INC.

By: *(s) Nathalie Théberge*
Name: Nathalie Théberge
Title: Vice President, Legal Affairs & Corporate Secretary

SCHEDULE "A"
TERMS AND CONDITIONS FOR UNITED STATES OFFERS AND SALES

As used in this schedule, the following terms shall have the meanings indicated:

Affiliate	means an "affiliate" as that term is defined in Rule 405 under the U.S. Securities Act;
Directed Selling Efforts	means "directed selling efforts" as that term is defined in Rule 902 (c) of Regulation S. Without limiting the foregoing, but for greater clarity in this Schedule, it means, subject to the exclusions from the definition of directed selling efforts contained in Regulation S, any activity undertaken for the purpose of, or that could reasonably be expected to have the effect of, conditioning the market in the United States for any of the Offered Subscription Receipts being offered pursuant to Regulation S, and includes the placement of any advertisement in a publication with a general circulation in the United States that refers to the offering of any of the securities;
Foreign Issuer	means a "foreign issuer" as that term is defined in Rule 902 (e) of Regulation S. Without limiting the foregoing, but for greater clarity in this Schedule, it means any issuer which is: (a) the government of any foreign country or of any political subdivision of a foreign country; or (b) a corporation or other organization incorporated under the laws of any foreign country, except an issuer meeting the following conditions as of the last Business Day of its most recently completed second fiscal quarter: (1) more than 50 percent of the outstanding voting securities of such issuer are held of record either directly or indirectly by residents of the United States; and (2) any of the following; (i) the majority of the executive officers or directors of the issuer are United States citizens or residents, (ii) more than 50 percent of the assets of the issuer are located in the United States, or (iii) the business of the issuer is administered principally in the United States;
General Solicitation or General Advertising	means "general solicitation or general advertising", as used in Rule 502(c) under the U.S. Securities Act, including any advertisement, article, notice or other communication published in any newspaper, magazine, on the internet or similar media or broadcast over radio or television or on the internet, or any seminar or meeting whose attendees had been invited by general solicitation or general advertising;
Investment Company Act	means the U.S. Investment Company Act of 1940, as amended;
Offshore Transaction	means "offshore transaction" as that term is defined in Rule 902(h) of Regulation S;
Qualified Institutional Buyer	means a "qualified institutional buyer" as that term is defined in Rule 144A;
Regulation D	means Regulation D adopted by the SEC under the U.S. Securities Act;
Regulation S	means Regulation S adopted by the SEC under the U.S. Securities Act;
Rule 15a-6	means Rule 15a-6 adopted by the SEC under the U.S. Securities Act;

Rule 144A	means Rule 144A adopted by the SEC under the U.S. Securities Act;
SEC	means the United States Securities and Exchange Commission;
Substantial U.S. Market Interest	means “substantial U.S. market interest” as that term is defined in Rule 902(j) of Regulation S;
U.S. Affiliate	means a United States registered broker-dealer affiliate of an Underwriter;
U.S. Exchange Act	means the United States Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder;
U.S. Placement Memorandum	means the final U.S. private placement memorandum, including a copy of the English language version of the Prospectus, prepared by the Company in connection with the offer and sale of the Offered Subscription Receipts in the United States;
U.S. Preliminary Placement Memorandum	means the preliminary U.S. private placement memorandum, including a copy of the English language version of the Preliminary Prospectus, prepared by the Company in connection with the offer and sale of the Offered Subscription Receipts in the United States; and
U.S. Securities Act	means the United States Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

All capitalized terms used herein without definition have the meanings ascribed thereto in the Underwriting Agreement to which this Schedule “A” is attached.

<u>Representations, Warranties and Covenants of the Underwriters</u>

Each Underwriter, on its own behalf and on behalf of its U.S. Affiliate, acknowledges that the Offered Subscription Receipts have not been and will not be registered under the U.S. Securities Act and may not be offered or sold within the United States, except pursuant to an exemption from the registration requirements of the U.S. Securities Act and applicable state securities laws. Accordingly, each of the Underwriters, on its own behalf and on behalf of its U.S. Affiliate, represents, warrants, covenants and agrees to and with the Company that:

1. It has offered and sold, and will offer and sell, (a) the Offered Subscription Receipts forming part of its allotment only in Offshore Transactions in accordance with Rule 903 of Regulation S or (b) the Offered Subscription Receipts only as provided in paragraphs 2 through 12 below. Accordingly, neither the Underwriter, its U.S. Affiliate nor any persons acting on its or their behalf, has made or will make any Directed Selling Efforts in the United States with respect to the Offered Subscription Receipts or (except as permitted in paragraphs 2 through 12 below): (A) any offer to sell or any solicitation of an offer to buy any Offered Subscription Receipts in the United States, or (B) any sale of Offered Subscription Receipts to any purchaser unless, at the time the buy order was or will have been originated, the purchaser was outside the United States, or the Underwriter, its U.S. Affiliate or persons acting on its behalf reasonably believed that such purchaser was outside the United States.

2. It will not offer or sell the Offered Subscription Receipts in the United States, except that it may offer and re-sell the Offered Subscription Receipts and Additional Subscription Receipts to Qualified Institutional Buyers in compliance with Rule 144A. It shall inform, or cause its U.S. Affiliate to inform, each Qualified Institutional Buyer that the Offered Subscription Receipts and Additional Subscription Receipts are being sold to it in reliance upon exemptions from the registration requirements of the U.S. Securities Act.

3. It has not entered and will not enter into any contractual arrangement with respect to the distribution of the Offered Subscription Receipts and Additional Subscription Receipts, except with its U.S. Affiliate, any Selling Firms or with the prior written consent of the Company. It shall require each Selling Firm to agree in writing, for the benefit of the Company to comply with, and shall use its best efforts to ensure that each Selling Firm complies with, the same provisions of this Schedule "A" as apply to such Underwriter as if such provisions applied to such Selling Firm.

4. All offers of Offered Subscription Receipts and Additional Subscription Receipts in the United States to Qualified Institutional Buyers have been and will be made by the Underwriter's U.S. Affiliate or pursuant to Rule 15a-6 and all sales of the Offered Subscription Receipts and Additional Subscription Receipts in the United States to Qualified Institutional Buyers shall be and will be made by the Underwriter's U.S. Affiliate or pursuant to Rule 15a-6 in compliance with Rule 144A and in transactions exempt from registration or qualification under any applicable state securities laws.

5. It and its Affiliates have not, either directly or through a person acting on its or their behalf, solicited and will not solicit offers to buy, and have not offered to sell and will not offer to sell, Offered Subscription Receipts and Additional Subscription Receipts in the United States by any form of General Solicitation or General Advertising or in any manner involving a public offering within the meaning of Section 4(a)(2) of the U.S. Securities Act.

6. It and its U.S. Affiliate are Qualified Institutional Buyers, and all offers and sales of Offered Subscription Receipts and Additional Subscription Receipts have been or will be made in the United States in accordance with any applicable U.S. federal or state laws or regulations governing the registration or conduct of securities brokers or dealers and applicable rules of the Financial Industry Regulatory Authority, Inc. Each U.S. Affiliate that makes offers and sales in the United States is on the date hereof, and will be on the date of each offer and sale of Offered Subscription Receipts and Additional Subscription Receipts in the United States, duly registered as a broker-dealer pursuant to Section 15(b) of the U.S. Exchange Act and the securities laws of each state in which such offer or sale is made (unless exempted from the respective state's broker-dealer registration requirements) and a member in good standing with the Financial Industry Regulatory Authority, Inc.

7. Immediately prior to making an offer of Offered Subscription Receipts and Additional Subscription Receipts in the United States, the Underwriter and its U.S. Affiliate had reasonable grounds to believe and did believe that each such offeree was a Qualified Institutional Buyer. At the time of each sale of Offered Subscription Receipts and Additional Subscription Receipts to a person in the United States, the Underwriter, its U.S. Affiliate, and any person acting on its or their behalf will have reasonable grounds to believe and will believe, that each purchaser is a Qualified Institutional Buyer.

8. Prior to any sale of Offered Subscription Receipts and Additional Subscription Receipts in the United States each Qualified Institutional Buyer will be provided with the U.S. Placement Memorandum and will be required to execute the Qualified Institutional Buyer Letter in the form attached as Exhibit A to the U.S. Placement Memorandum.

9. Each offeree of Offered Subscription Receipts and Additional Subscription Receipts in the United States shall be provided with a copy of either the U.S. Preliminary Placement Memorandum or the U.S. Placement Memorandum. Each purchaser of Offered Subscription Receipts and Additional Subscription Receipts in the United States shall be provided, prior to time of purchase of any Offered Subscription Receipts and Additional Subscription Receipts, with a copy of the U.S. Placement Memorandum.

10. At least one Business Day prior to the Closing Date, the Company and its transfer agent will be provided with a list of all purchasers of the Offered Subscription Receipts and Additional Subscription Receipts in the United States.

11. At the Closing, and any closing in connection with the Over-Allotment Option, each Underwriter (together with its U.S. Affiliate) that participated in the offer of Offered Subscription Receipts and Additional Subscription Receipts, as applicable, in the United States will either: (i) provide a certificate, substantially in the form of Exhibit A to this Schedule "A", relating to the manner of the offer and sale of the Offered Subscription Receipts and Additional Subscription Receipts, as applicable, in the United States, or (ii) be deemed to have represented and warranted that neither it, its Affiliates nor any one acting on its or their behalf, has offered or sold any Offered Subscription Receipts and Additional Subscription Receipts in the United States.

12. Neither the Underwriter, its U.S. Affiliate or any person acting on its behalf (other than the Company, its Affiliates and any person acting on their behalf, as to which no representation is made) has taken or will take, directly or indirectly, any action in violation of Regulation M under the U.S. Exchange Act in connection with the offer and sale of the Offered Subscription Receipts and Additional Subscription Receipts.

Representations, Warranties and Covenants of the Company

The Company represents, warrants, covenants and agrees that:

1. The Company is, and at the Closing will be, a Foreign Issuer and reasonably believes that there is no Substantial U.S. Market Interest in the Offered Subscription Receipts.

2. The Company is not, and as a result of the sale of the Offered Subscription Receipts contemplated hereby and the application of the proceeds of the Offering as set forth under the caption "Use of Proceeds" in the Prospectus, will not be, an open-end investment company, a unit investment trust or a face- amount certificate company registered or required to be registered or a closed-end investment company required to be registered, but not registered, under the Investment Company Act.

3. The Offered Subscription Receipts and Additional Subscription Receipts are eligible for the initial resale to Qualified Institutional Buyers purchasing in the Offering pursuant to Rule 144A(d)(3)(i).

4. Except with respect to offers and sales in accordance with this Schedule "A" to Qualified Institutional Buyers in reliance upon an exemption from registration under the U.S. Securities Act, neither the Company nor any of its Affiliates, nor any person acting on its or their behalf (other than the Underwriters, their respective U.S. Affiliates or any person acting on their behalf, in respect of which no representation is made), has made or will make: (A) any offer to sell, or any solicitation of an offer to buy, any Offered Subscription Receipts to a person in the United States; or (B) any sale of Offered Subscription Receipts unless, at the time the buy order was or will have been originated, the purchaser (i) is outside the United States or (ii) the Company, its Affiliates, and any person acting on their behalf reasonably believe that the purchaser is outside the United States.

5. During the period in which the Offered Subscription Receipts are offered for sale, neither it nor any of its Affiliates, nor any person acting on its or their behalf (other than the Underwriters, their respective U.S. Affiliates or any person acting on their behalf, in respect of which no representation is made) has engaged in or will engage in any Directed Selling Efforts in the United States with respect to the Offered Subscription Receipts, or has taken or will take any action in violation of Regulation M under the U.S. Exchange Act or that would cause the exemption afforded by Rule 144A to be unavailable for offers and sales of Offered Subscription Receipts and Additional Subscription Receipts in the United States in accordance with this Schedule "A", or the exclusion from registration afforded by Rule 903 of Regulation S to be unavailable for offers and sales of the Offered Subscription Receipts outside the United States in accordance with the Underwriting Agreement.

6. None of the Company, any of its Affiliates or any person acting on its or their behalf (other than the Underwriters, their respective U.S. Affiliates or any person acting on their behalf, in respect of which no representation is made) has offered or will offer to sell, or has solicited or will solicit offers to buy, the Offered Subscription Receipts and Additional Subscription Receipts in the United States by means of any form of General Solicitation or General Advertising or in any manner involving a public offering within the meaning of Section 4(a)(2) of the U.S. Securities Act.

7. The U.S. Preliminary Placement Memorandum and the U.S. Placement Memorandum (and any other material or document prepared or distributed by or on behalf of the Company used in connection with offers and sales of the Offered Subscription Receipts) include, or will include, statements to the effect that the Offered Subscription Receipts and Additional Subscription Receipts have not been registered under the U.S. Securities Act and may not be offered or sold in the United States unless an exemption from the registration requirements of the U.S. Securities Act and all applicable state securities laws is available. Such statements have appeared, or will appear, (i) on the cover page of the U.S. Preliminary Placement Memorandum and the U.S. Placement Memorandum; (ii) in the “Plan of Distribution” section of the Preliminary Prospectus and the Prospectus; and (iii) in any press release related to the Offering made or issued by the Company or anyone acting on the Company's behalf.

EXHIBIT A TO SCHEDULE A

UNDERWRITER'S CERTIFICATE

In connection with the private placement in the United States of the Offered Subscription Receipts and Additional Subscription Receipts (the "**Offered Subscription Receipts**") of Xebec Adsorption Inc. (the "**Company**") pursuant to the underwriting agreement dated as of December 14, 2020 between the Company and the Underwriters named therein (the "**Underwriting Agreement**"), the undersigned does hereby certify as follows:

1. ________________________________ is, on the date hereof, and was at the time of each offer and sale of the Offered Subscription Receipts made by it, a duly registered broker or dealer with the United States Securities and Exchange Commission, and a member of and in good standing with the Financial Industry Regulatory Authority, Inc. ("**FINRA**");

2. prior to the sale of any Offered Subscription Receipts in the United States, each offeree in the United States was provided with a copy of the U.S. Placement Memorandum, and no other written material, other than the U.S. Preliminary Placement Memorandum and any Supplementary Material approved by the Company for use in presentations to prospective purchasers, was used by us in connection with the Offering of the Offered Subscription Receipts in the United States;

3. immediately prior to transmitting such U.S. Placement Memorandum to such offerees, we had reasonable grounds to believe and did believe that each offeree purchasing Offered Subscription Receipts was a Qualified Institutional Buyer and, on the date hereof, we continue to believe that each person purchasing Offered Subscription Receipts in the United States is a Qualified Institutional Buyer;

4. no form of "general solicitation" or "general advertising" (as those terms are used in Regulation D under the U.S. Securities Act) or "directed selling efforts" (as such term is used in Regulation S under the U.S. Securities Act) was used by us, including advertisements, articles, notices or other communications published in any newspaper, magazine, on the internet or similar media or broadcast over radio, television or the internet, or any seminar or meeting whose attendees had been invited by general solicitation or general advertising, in connection with the offer or sale of the Offered Subscription Receipts in the United States;

5. all offers and sales of Offered Subscription Receipts in the United States have been effected by ________________________________ in accordance with all applicable U.S. federal and state broker-dealer requirements and FINRA rules;

6. all offers and sales of the Offered Subscription Receipts have been conducted by us in accordance with the terms of the Underwriting Agreement, including Schedule "A" thereto; and

7. prior to any sale of the Offered Subscription Receipts in the United States, we caused each Qualified Institutional Buyer to execute a Qualified Institutional Buyer Letter in the form attached as Exhibit A to the U.S. Placement Memorandum and such letter has been delivered to the Company.

Terms used in this certificate have the meanings given to them in the Underwriting Agreement, including Schedule "A" thereto, unless otherwise defined herein.

DATED this __________ day of ____________________________, 2020.

Per:	___________________________________	Per:	___________________________________
	Authorized Signing Officer		Authorized Signing Officer

SCHEDULE “B”
FORM OF LOCK-UP AGREEMENT

LOCK-UP AGREEMENT

________________, 2020

**To: Desjardins Securities Inc.
TD Securities Inc.
National Bank Financial Inc.
Canaccord Genuity Group Inc.
Raymond James Ltd.
Beacon Securities Limited
Stifel Nicolaus Canada Inc.**

Ladies and Gentlemen:

The undersigned director and/or officer of Xebec Adsorption Inc. (the “**Company**”) understands that an underwriting agreement (“**Underwriting Agreement**”) has been executed and delivered by the Company and Desjardins Securities Inc. and TD Securities Inc. (together, the “**Joint Bookrunners**”), and National Bank Financial Inc., Canaccord Genuity Group Inc., Raymond James Ltd., Beacon Securities Limited and Stifel Nicolaus Canada Inc. (together with the Joint Bookrunners, the “**Underwriters**”), whereby the Underwriters have offered and agreed to purchase, on a “bought deal” basis, and the Company has agreed to issue and sell to the Underwriters, an aggregate of 21,552,000 subscription receipts of the Company (the “**Offering**”). The execution and delivery by the undersigned of this agreement (“**Lock-Up Letter Agreement**”) is a condition to the closing of the Offering.

In consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned hereby agrees not (and shall cause its affiliates not) to, directly or indirectly, offer, sell, contract to sell, grant any option to purchase, make any short sale, lend, swap, hypothecate, pledge, transfer, assign, otherwise dispose of or deal with, or publicly announce any intention to do any of the foregoing, whether through the facilities of a stock exchange, by private placement or otherwise, any securities of the Company owned, directly or indirectly, by the undersigned or under the control or direction of the undersigned or with respect to which the undersigned has beneficial ownership (the “**Locked-Up Securities**”), or enter into any other transaction or arrangement that has the effect of transferring, in whole or in part, any of the economic consequences of ownership of the Locked-Up Securities, without, in each case, the prior written consent of the Joint Bookrunners, on behalf of the Underwriters, which will not be unreasonably withheld or delayed, for a period of 90 days from the date of the closing of the Offering (the “**Lock-Up Period**”).

Notwithstanding anything to the contrary contained in this Lock-Up Letter Agreement, during the Lock-Up Period, the undersigned may, without the consent of the Joint Bookrunners: (i) transfer, sell or tender any or all of the Locked-Up Securities pursuant to a take-over bid (as defined in the *Securities Act* (Québec)) or any other similar transaction made generally to all of the shareholders of the Company, including, without limitation, a merger, arrangement or amalgamation, involving a change of control of the Company (provided that all Locked-Up Securities not transferred, sold or tendered remain subject to this undertaking) and provided further that it shall be a condition of transfer that if such take-over bid or such other transaction is not completed, any Locked-Up Securities subject to this undertaking shall remain subject to the restrictions in this Lock-Up Letter Agreement; (ii) transfer any or all of the Locked-Up Securities to any nominee or custodian where there is no change in beneficial ownership; (iii) transfer any or all of the Locked-Up Securities under existing director or officer stock options, bonus or purchase plans or similar share compensation arrangements of the Company; (iv) transfer any or all of the Locked-Up Securities under any director or officer stock options or bonuses granted subsequently in accordance with Applicable Securities Laws and in a manner consistent with the Company's past practices; or (v) if applicable to the undersigned, transfer any or all of the Locked-Up Securities that are subject to the private placement to be completed concurrently with the Offering.

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Lock-up Letter Agreement and that, upon the reasonable request of the Underwriters, the undersigned will execute any additional documents necessary or desirable in connection with the enforcement of this Lock-Up Letter Agreement. This Lock-Up Letter Agreement is irrevocable and shall be binding upon the heirs, legal representatives, successors and assigns of the undersigned.

This Lock-Up Letter Agreement shall be governed by and construed in accordance with the laws of the Province of Québec and the federal laws of Canada applicable in the Province of Québec, without reference to conflicts of laws.

This Lock-Up Letter Agreement constitutes the entire agreement and understanding between and among the parties with respect to the subject matter of this Lock-Up Letter Agreement and supersedes any prior agreement, representation or understanding with respect to such subject matter.

This Lock-up Letter Agreement has been entered into on the date first written above.

Yours very truly,

[●]

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:

XEBEC ABSORPTION INC. & AL
Debtors / Petitioners

and.

DELOITTE RESTRUCTURING INC.,

Proposed Monitor

APPLICATION FOR AN EXTENSION OF THE STAY OF PROCEEDINGS TO CERTAIN THIRD PARTIES, AFFIDAVIT, NOTICE OF PRESENTATION, LIST OF EXHIBITS, EXHIBITS P-1 to P-4 (Section 11 of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36)

ORIGINAL

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