

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:

XEBEC HOLDING USA INC., *et al.*,

Debtors in a foreign proceeding.¹

Chapter 15

Case No. 22- 10934 (KBO)

Jointly Administered

**ORDER (I) RECOGNIZING AND ENFORCING
THE CCAA VESTING ORDER; (II) APPROVING THE SALE OF
CERTAIN OF THE DEBTORS’ ASSETS FREE AND CLEAR OF ANY AND ALL
LIENS, CLAIMS, AND ENCUMBRANCES; (III) APPROVING THE ASSUMPTION
AND ASSIGNMENT OF CERTAIN CONTRACTS; AND
(IV) GRANTING RELATED RELIEF**

Upon the motion (the “**Motion**”)² of Xebec Adsorption Inc., in its capacity as the duly-appointed foreign representative (the “**Foreign Representative**”) for the above-captioned debtors (collectively, the “**Debtors**”), for entry of an order pursuant to sections 105(a) 363, 365, 1501, 1507, 1520, 1521, 1525, and 1527 of the Bankruptcy Code, Bankruptcy Rules 2002 and 6004, and Local Rules 2002-1 and 9006-1, for entry of an order (this “**Order**”), (a) recognizing and enforcing that certain *Approval, Vesting and Assignment Order in Respect of the Assets of CDA Systems, LLC and California Compression LLC*, entered by the Canadian Court on February 13, 2023 (the “**CCAA Vesting Order**”), attached hereto as **Exhibit A**; (b) approving, under section 363 of the Bankruptcy Code, the sale of the Debtors’ rights, title, and interests in and to the Purchased Assets (as defined below) to Sullair, LLC or its designee (“**Purchaser**”), pursuant to that certain

¹ The Debtors in the chapter 15 proceedings and the last four digits of their federal tax identification numbers are: Xebec Adsorption Inc. (0228), Xebec RNG Holdings Inc. (N/A), Applied Compression Systems Ltd. (N/A), Compressed Air International Inc. (N/A), Xebec Holding USA Inc. (8495), Enerphase Industrial Solutions Inc. (1979), CDA Systems, LLC (6293), Xebec Adsorption USA, Inc. (0821), The Titus Company (9757), Nortekbelair Corporation (1897), XBC Flow Services – Wisconsin Inc. (7493), California Compression, LLC (4752), and Xebec Systems USA LLC (4156). The location of the Debtors’ corporate headquarters and the Debtors’ foreign representative is: 730 Industriel Boulevard, Blainville, Quebec, J7C 3V4, Canada.

² Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Motion.

Asset Purchase Agreement, dated February 8, 2023, by and between Debtors CDA Systems, LLC (“**CDA**”) and California Compression, LLC (“**California Compression**,” and together with CDA, “**Sellers**”) and Purchaser (the “**Transaction Agreement**”), free and clear of any and all liens, claims, encumbrances, and other interests (other than the encumbrances listed on Schedule C of the CCAA Vesting Order (the “**Permitted Encumbrances**”)); (c) authorizing, under section 365 of the Bankruptcy Code, the assumption and assignment of the Assigned Contracts (as defined below) to Purchaser; and (d) granting such other relief as this Court deems just and proper, all as more fully set forth in the Motion; and upon consideration of the Vounassis First Day Declaration, the Abitan Noticing Procedures Declaration, the Vounassis Sale Declaration, and the Abitan Sale Declaration (collectively, the “**Company Declarations**”); and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. § 1334 and sections 109 and 1501 of the Bankruptcy Code; and venue being proper before this Court pursuant to 28 U.S.C. § 1410(1) and (3); and the Motion being a core proceeding pursuant to 28 U.S.C. § 157(b); and that this Court may enter a final order consistent with Article III of the United States Constitution; and adequate and sufficient notice of the filing of the Motion having been given by the Foreign Representative; and it appearing that the relief requested in the Motion is necessary and beneficial to the Debtors; and this Court having held a hearing (the “**Hearing**”) to consider the relief requested in the Motion; and there being no objections or other responses filed that have not been overruled, withdrawn, or otherwise resolved; and after due deliberation and sufficient cause appearing therefore, **IT IS HEREBY FOUND AND DETERMINED THAT:**

A. The findings and conclusions set forth herein constitute this Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact

constitute conclusions of law, and to the extent that any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court previously entered that certain Order Granting Recognition of Foreign Main Proceeding and Certain Related Relief [Docket No. 36] on October 27, 2022 (the “**Recognition Order**”), pursuant to which this Court found that the Debtors had satisfied the requirements of, among others, sections 101(23) and (24), 1502(4), 1504, 1507, 1509, 1510, 1515, 1517, 1520, 1521, and 1522 of the Bankruptcy Code. All such findings by this Court are hereby incorporated by reference herein and such Recognition Order shall continue in effect in all respects except to the extent this Order directly modifies or directly contradicts such Recognition Order.

C. On September 29, 2022, the Canadian Court entered that certain Bidding Procedures Order that, among other things: (i) authorized the Debtors to implement a sale and investment solicitation process (the “**SISP**”) in accordance with the terms thereof; and (ii) provided other relief as set forth therein.

D. On January 9, 2023, this Court entered that certain *Order (A) Approving Noticing Procedures for Debtors’ Motion for (I) Approval of the Sale of Debtors’ Assets; and (II) Recognition and Enforcement of Canadian Court Order Approving the Sale; (B) Setting a Sale Hearing; and (C) Granting Related Relief* [Docket No. 65] (the “**Noticing Procedures Order**”), pursuant to which this Court, among other things, approved the Noticing Procedures (as defined therein) for the Motion.

E. On February 13, 2023, the Canadian Court entered the CCAA Vesting Order, approving, among other things, the Transaction Agreement, including the sale of Sellers’ rights, title, and interests in and to substantially all of Sellers’ assets (the “**Purchased Assets**”) to

Purchaser, and the assumption and assignment by Sellers to Purchaser of those certain contracts listed in the Transaction Agreement (the “**Assigned Contracts**”).

F. Based on the affidavits of service filed with, and the representations made to, this Court: (i) notice of the Motion, the Hearing, and the CCAA Vesting Order complied with the Noticing Procedures Order and was proper, timely, adequate, and sufficient under the circumstances of these chapter 15 cases and these proceedings and complied with the various applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules; and (ii) no other or further notice of the Motion, the Hearing, the CCAA Vesting Order, or the entry of this Order is necessary or shall be required.

G. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a).

H. The relief granted herein is necessary and appropriate, is in the interest of the public, promotes international comity, is consistent with the public policies of the United States, is warranted pursuant to sections 105(a), 363(b), (f), (m) and (n), 365, 1501, 1507, 1520, 1521, 1525, and 1527 of the Bankruptcy Code, and will not cause any hardship to any parties in interest that is not outweighed by the benefits of the relief granted.

I. Based on information contained in the Motion, the Company Declarations, and the record made at the Hearing, the Debtors’ advisors conducted the SISP to solicit interest in, among other of the Debtors’ assets, the Purchased Assets in accordance with the terms of the SISP Orders, and such process was non-collusive, duly noticed, and provided a reasonable opportunity to make an offer to purchase the Purchased Assets. The Foreign Representative and the Monitor have recommended that the Debtors sell the Purchased Assets and assign the Assigned Contracts to Purchaser in accordance with the terms and conditions set forth in the Transaction Agreement.

J. Based on information contained in the Motion, the Company Declarations, and the record made at the Hearing, the relief granted herein relates to assets and interests that, under the laws of the United States, should be administered in the Canadian Proceedings.

K. The Debtors' and Sellers' performance under the Transaction Agreement and related agreements: (i) constitute a sound and reasonable exercise of the Debtors' and Sellers' business judgment; (ii) provide value and are beneficial to the Debtors and Sellers, and are in the best interests of the Debtors and Sellers, their estates, and their stakeholders; and (iii) are reasonable and appropriate under the circumstances. The consideration provided by Purchaser for the Purchased Assets under the Transaction Agreement constitutes fair consideration and reasonably equivalent value for the Purchased Assets under the Bankruptcy Code and other laws of the United States, any state, territory, possession thereof, or the District of Columbia.

L. Purchaser is not, and shall not be deemed to be, a mere continuation, and is not holding itself out as a mere continuation, of any of the Debtors and Sellers and there is no continuity between Purchaser and the Debtors or Sellers. The Transaction does not amount to a consolidation, merger, or *de facto* merger of Purchaser and any of the Debtors or Sellers.

M. Time is of the essence in consummating the Transaction. To maximize the value of the Purchased Assets, it is essential that the Transaction occur and be recognized and enforced in the United States promptly and become effective. The Foreign Representative, on behalf of the Debtors, has demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the immediate approval and consummation of the Transaction as contemplated by the Transaction Agreement. Accordingly, there is cause to waive the stay that would otherwise be applicable under Bankruptcy Rules 6004(a) and 6004(h), and accordingly the

transactions contemplated by the Transaction Agreement and related agreements can be closed as soon as reasonably practicable upon entry of this Order.

N. Based upon information contained in the Motion, the Company Declarations, the other pleadings filed in these chapter 15 cases, and the record made at the Hearing, the Transaction Agreement and each of the transactions contemplated therein were negotiated, proposed, and entered into by the Debtors, Sellers and Purchaser in good faith, without collusion, and from arm's-length bargaining positions. Purchaser is a "good faith purchaser" within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to all the protections afforded thereby. Neither the Debtors, the Foreign Representative, nor Purchaser has engaged in any conduct that would cause or permit the Transaction Agreement or the consummation of the Transaction to be avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code. Purchaser is not an "insider" of any of the Debtors, as that term is defined in section 101 of the Bankruptcy Code, and no common identity of incorporators, directors, managers, or controlling stockholders exists between Purchaser and the Debtors or Sellers.

O. The Transaction Agreement was not entered into for the purpose of hindering, delaying, or defrauding any present or future creditors of the Debtors or Sellers.

P. The Foreign Representative, on behalf of itself and the Debtors and Sellers, may sell the Purchased Assets free and clear of any and all liens, claims (as defined in section 101(5) of the Bankruptcy Code), rights, liabilities, encumbrances, and other interests of any kind or nature whatsoever against the Debtors or the Purchased Assets, other than the Permitted Encumbrances, because with respect to each creditor asserting any liens, claims, encumbrances, and other interests, one or more of the standards set forth in section 363(f)(1) through (5) of the Bankruptcy Code has been satisfied. Each creditor that did not object to the Motion is deemed to have consented to the

sale of the Purchased Assets free and clear of any and all liens, claims, encumbrances, and other interests (other than the Permitted Encumbrances) pursuant to section 363(f)(2) of the Bankruptcy Code. All such liens, claims, encumbrances, and other interests, including Claims and Encumbrances (as defined in the CCAA Vesting Order), shall attach to the proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

Q. The total consideration to be provided under the Transaction Agreement reflects Purchaser's reliance on this Order to provide it, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, with title to and possession of the Purchased Assets free and clear of any and all liens, claims, encumbrances, and other interests, other than the Permitted Encumbrances.

R. The sale of the Purchased Assets to Purchaser will be a legal, valid, and effective sale of the Purchased Assets, and, upon the filing of the Monitor's Certificate, will vest Purchaser with all rights, title, and interests of the Debtors and the Sellers in and to the Purchased Assets, free and clear of any and all liens, claims, encumbrances, and other interests, other than the Permitted Encumbrances.

S. The Foreign Representative, the Debtors, the Sellers, and the Monitor, as appropriate: (i) have full power and authority to execute the Transaction Agreement and all other documents contemplated thereby; (ii) have all the power and authority necessary to consummate the transactions contemplated by the Transaction Agreement; and (iii) upon entry of this Order, other than any consents identified in the Transaction Agreement (including with respect to antitrust matters, if any), need no consent or approval from any other Person (as defined in the CCAA Vesting Order) or governmental unit to consummate the Transaction. The Debtors and the Sellers

are the sole and rightful owners of the Purchased Assets, no other Person has any ownership rights, title, or interests therein, and the Transaction has been duly and validly authorized by all necessary corporate action of the Debtors and the Sellers.

T. The Transaction Agreement is a valid and binding contract between the Debtors and Purchaser and shall be enforceable pursuant to its terms. The Transaction Agreement, the Transaction, and the consummation thereof shall be specifically enforceable against and binding upon (without posting any bond) the Debtors and the Foreign Representative in these chapter 15 cases and any trustee that may be appointed in any chapter 7 or chapter 11 successor cases, and shall not be subject to rejection or avoidance by the foregoing parties or any other Person.

U. Purchaser would not have entered into the Transaction Agreement and would not consummate the purchase of the Purchased Assets and the related transactions, thus adversely affecting the Debtors, their estates, and their creditors, and other parties in interest, if the sale of the Purchased Assets to Purchaser was not free and clear of any and all liens, claims, encumbrances, and other interests (other than the Permitted Encumbrances), or if Purchaser would, or in the future could, be liable on account of any such lien, claim, encumbrance, or any other interest, including, as applicable, certain liabilities related to the Purchased Assets that will not be assumed by Purchaser, as described in the Transaction Agreement.

V. A sale of the Purchased Assets other than free and clear of any and all liens, claims, encumbrances, and other interests (other than the Permitted Encumbrances) would yield substantially less value than the sale of the Purchased Assets pursuant to the Transaction Agreement; thus, the sale of the Purchased Assets free and clear of any and all liens, claims, encumbrances, and other interests (other than the Permitted Encumbrances), in addition to all of

the relief provided herein, is in the best interests of the Debtors, the Sellers, their creditors, and other parties in interest.

W. The interests of the Debtors' and Sellers' creditors in the United States are sufficiently protected. The relief granted herein is necessary and appropriate, in the interests of the public and international comity, consistent with the public policies of the United States, and warranted pursuant to sections 1521(b) and 1522 of the Bankruptcy Code.

X. The legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein.

Y. Any and all findings of fact and conclusions of law announced by this Court at the Hearing are incorporated herein.

Z. The legal and factual bases set forth in the Motion establish just cause for the relief granted herein. Entry of this Order is in the best interests of the Debtors, the Sellers, their creditors and interest holders, and all other parties in interest.

BASED ON THE FOREGOING FINDINGS OF FACT AND AFTER DUE DELIBERATION AND SUFFICIENT CAUSE APPEARING THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED in its entirety as set forth herein.
2. All objections, if any, to the Motion or the relief requested therein that have not been withdrawn, waived, or settled by stipulation filed with this Court, and all reservations of rights included therein, are hereby overruled on the merits.
3. The CCAA Vesting Order and all of its respective terms, including any immaterial or administrative amendments thereto, including those necessary to give effect to the substance of such order, either pursuant to the terms therein or as approved by the Canadian Court, are fully recognized and given full force and effect in the United States in their entirety.

4. The Transaction Agreement and the transactions contemplated thereunder, including, for the avoidance of doubt, (a) the sale of the Purchased Assets, (b) the assumption and assignment of the Assigned Contracts, and (c) the transfers of the Purchased Assets and any assets located within the United States on the terms set forth in the Transaction Agreement, the CCAA Vesting Order, including all transactions contemplated thereunder, this Order, including all transactions contemplated hereunder, and all of the terms and conditions of each of the foregoing are hereby approved and authorized pursuant to sections 105, 363, 365, 1501, 1520, 1521, 1525, and 1527 of the Bankruptcy Code. The failure specifically to include any particular provision of the Transaction Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Transaction Agreement and the Transaction be authorized and approved in its entirety.

5. Pursuant to sections 105, 363, 365, 1501, 1520, 1521, 1525, and 1527 of the Bankruptcy Code, the CCAA Vesting Order, and this Order, the Debtors, Purchaser, and the Foreign Representative (as well as their respective officers, employees, and agents) are authorized to take any and all actions necessary or appropriate to: (a) consummate the Transaction, including the sale of the Purchased Assets and the assumption and assignment of the Assigned Contracts to Purchaser, in accordance with the Transaction Agreement, the CCAA Vesting Order, and this Order; and (b) perform, consummate, implement, and close fully the Transaction, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Transaction Agreement and the Transaction and to take such additional steps and all further actions as may be necessary or appropriate to the performance of the obligations contemplated by the Transaction Agreement, all without further order of this Court, and are hereby authorized and empowered to cause to be executed and filed such statements, instruments, releases, and other

documents on behalf of such Person with respect to the Purchased Assets or Assigned Contracts that are necessary or appropriate to effectuate the transactions, any related agreements, the CCAA Vesting Order, and this Order, including amended and restated certificates or articles of incorporation and by-laws or certificates or articles of amendment, and all such other actions, filings, or recordings as may be required under appropriate provisions of the applicable laws of all applicable governmental units or as any of the officers of the Debtors or Purchaser may determine are necessary or appropriate, and are hereby authorized and empowered to cause to be filed, registered, or otherwise recorded a certified copy of the CCAA Vesting Order, this Order, or the Transaction Agreement, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all liens, claims, encumbrances, and other interests against the Purchased Assets. The CCAA Vesting Order and this Order are deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, or local government agency, department, or office.

6. All Persons that are currently in possession of some or all of the Purchased Assets located in the United States or that are otherwise subject to the jurisdiction of this Court are hereby directed to surrender possession of such Purchased Assets to Purchaser on the Closing Date.

7. This Court shall retain jurisdiction to enforce this Order and any and all terms and provisions of the CCAA Vesting Order in the United States.

Transfer of the Purchased Assets Free and Clear

8. Pursuant to sections 105(a), 363, 365, 1501, 1520, 1521, 1525, and 1527 of the Bankruptcy Code, on the Closing Date, all rights, title, and interests of the Debtors and Sellers in the Purchased Assets shall be transferred and absolutely vest in Purchaser, without further instrument of transfer or assumption and assignment, and such transfer shall: (a) be a legal, valid, binding, and effective transfer of the Purchased Assets to Purchaser; (b) upon the filing of the

Monitor's Certificate, vest Purchaser with all rights, title, and interests of the Debtors and Sellers in the Purchased Assets; and (c) be free and clear of any and all liens, claims, encumbrances, and other interests, other than the Permitted Encumbrances, with all such liens, claims, encumbrances, and other interests, including all Claims and Encumbrances (as defined in the CCAA Vesting Order), attaching to the proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

9. Pursuant to sections 105(a), 363(f), 365, 1501, 1520, 1521, 1525 and 1527 of the Bankruptcy Code, upon the closing of the Transaction Agreement and except with respect to solely Permitted Encumbrances: (a) no holder of a lien, claim, encumbrance, or other interest shall interfere, and each and every holder of a lien, claim, encumbrance, or other interest is enjoined from interfering, with Purchaser's rights and title to or use and enjoyment of the Purchased Assets; and (b) the sale of the Purchased Assets, the Transaction Agreement, and any instruments contemplated thereby shall be enforceable against and binding upon, and not subject to rejection or avoidance by, the Debtors or any successor thereof. All Persons holding a lien, claim, encumbrance, or other interest (other than the Permitted Encumbrances) are forever barred and enjoined from asserting such lien, claim, encumbrance, or other interest (other than the Permitted Encumbrances) against the Purchased Assets, Purchaser or its affiliates and their respective officers, directors, employees, managers, partners, members, financial advisors, attorneys, agents, and representatives, and their respective affiliates, successors, and assigns from and after closing of the Transaction Agreement.

10. Pursuant to sections 105(a), 363, 365, 1501, 1520, 1521, 1525, and 1527 of the Bankruptcy Code, on the Closing Date, Sellers are authorized to assume the Assigned Contracts and assign such Assigned Contracts to Purchaser, and such transfer and assumption and assignment shall be deemed legal, valid, binding, and effective and shall be free and clear of any and all liens, claims, encumbrances, cure costs not assumed by Purchaser, and other interests, other than the Permitted Encumbrances. The Assigned Contracts shall be transferred to and remain in full force and effect for the benefit of Purchaser in accordance with their respective terms, notwithstanding any provision in any such Assigned Contract that prohibits, restricts, or conditions such assumption and assignment or transfer.

11. For the avoidance of doubt, upon payment of the Purchase Price, transfer of title and possession of the Purchased Assets in and to the Purchaser shall be free and clear of any liabilities and other liens pursuant to any successor, successor-in-interest, successor employer or substantial continuation theory, including the following: (a) any employment or labor agreements, (b) all deeds of trust, security deeds, mortgages, liens, and security interests, (c) intercompany loans and receivables between the Debtors and any non-Debtor subsidiary; (d) any pension or medical benefit plan of the Debtors, any compensation or other employee benefit plan of the Debtors, or any other employee welfare agreements, practices and programs, (e) any other employee, workers' compensation, occupational disease or unemployment or temporary disability related claim, including, without limitation, claims and other liens that might otherwise arise under or pursuant to (i) the Employee Retirement Income Security Act of 1974, as amended, and state equivalents thereof, (ii) the Fair Labor Standards Act, and state equivalents thereof, (iii) Title VII of the Civil Rights Act of 1964, and state equivalents thereof, (iv) the Federal Rehabilitation Act of 1973, and state equivalents thereof, (v) the National Labor Relations Act, and state equivalents

thereof, (vi) the Worker Adjustment and Retraining Act of 1988, and state equivalents thereof, (vii) the Age Discrimination and Employee Act of 1967 and Age Discrimination in Employment Act, as amended, and state equivalents thereof, (viii) the Americans with Disabilities Act of 1990, and state equivalents thereof, (ix) the Consolidated Omnibus Budget Reconciliation Act of 1985, and state equivalents thereof, (x) state discrimination laws, (xi) state unemployment compensation laws or any other similar state laws, or (xii) any other state or federal benefits or claims and other liens relating to any employment with the Debtors or any predecessors, (f) environmental or other claims and other liens arising under any environmental laws with respect to any assets owned or operated by Debtor(s) or any corporate predecessor at any time on or prior to the Closing Date (including, without limitation, the presence of hazardous, toxic, polluting or contaminating substances or waste) that may be asserted on any basis, including, without limitation, under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601, et seq., or other state or federal statute, (g) any bulk sales or similar law, (h) any Tax statutes or ordinances, including, without limitation, the Internal Revenue Code of 1986, as amended, and (i) any and all theories based upon successor liability, including any theories on successor products liability grounds or otherwise; (j) any claims arising prior to the Closing Date based on equity ownership; and (k) any claims arising prior to the Closing Date based upon or sounding in equity.

12. Each and every federal, state, and local governmental agency or department is authorized and directed, to the fullest extent permitted by applicable law, to accept, file, register, or otherwise record (and not impose any fee, charge, or tax in connection therewith) any and all documents and instruments necessary or appropriate to consummate the sale of the Purchased Assets to Purchaser and the transactions generally. Effective as of the Closing Date, the CCAA Vesting Order and this Order shall constitute for any and all purposes a full and complete

conveyance and transfer of the Debtors' interests in the Purchased Assets to Purchaser free and clear of any and all liens, claims, encumbrances, and other interests, other than the Permitted Encumbrances.

13. This Order (a) shall be effective as a determination that, as of the Closing Date, all liens, claims, encumbrances, and other interests, other than the Permitted Encumbrances, have been unconditionally released, discharged, and terminated as to Purchaser and the Purchased Assets, and that the conveyances and transfers described herein have been effected, and (b) is and shall be binding upon and govern the acts of all Persons, including all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal and local officials, and all other Persons who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease. Each of the foregoing Persons is hereby authorized and directed, to the fullest extent permitted by applicable law, to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Transaction Agreement and effect the discharge of all liens, claims, encumbrances, and other interests other than the Permitted Encumbrances pursuant to this Order and the CCAA Vesting Order and not impose any fee, charge, or tax in connection therewith.

14. Purchaser is not and shall not be deemed to: (a) be a legal successor, or otherwise be deemed a successor, to any of the Debtors; (b) have, *de facto* or otherwise, merged with or into any or all Debtors; or (c) be a mere continuation or substantial continuation of any or all Debtors or the enterprise or operations of any or all Debtors.

15. The Transaction Agreement, including the purchase of the Purchased Assets, is undertaken by Purchaser in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and accordingly, the reversal or modification on appeal of the authorizations provided herein shall neither affect the validity of the transactions nor the transfer of the Purchased Assets to Purchaser free and clear of any and all liens, claims, encumbrances, and other interests, unless such authorization is duly stayed before the closing of the Transaction Agreement pending such appeal.

16. Neither the Debtors nor Purchaser has engaged in any conduct that would cause or permit the Transaction Agreement to be avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code.

17. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and this Order, and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

18. The terms and provisions of the Transaction Agreement, the CCAA Vesting Order, and this Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtors, Purchaser, the Foreign Representative, the Debtors' creditors, and all other parties in interest, and any successors of the Debtors, Purchaser, the Foreign Representative, and the Debtors' creditors, including any foreign representative(s) of the Debtors, trustee(s), examiner(s), or receiver(s) appointed in any proceeding, including, without limitation, any proceeding under any chapter of the Bankruptcy Code, the CCAA, or any other law, and all such terms and provisions shall likewise be binding on such foreign representative(s), trustee(s), examiner(s), or receiver(s) and shall not be subject to rejection or avoidance by the Debtors, their creditors, or any trustee(s), examiner(s), or receiver(s).

19. Subject to the terms and conditions of the CCAA Vesting Order, the Transaction Agreement, and any related agreements, documents, or other instruments, may be modified, amended, or supplemented by the parties thereto, in a writing signed by each party, and in accordance with the terms thereof, without further order of this Court; *provided* that any such modification, amendment, or supplement does not materially change the terms of the transactions, the Transaction Agreement, or any related agreements, documents, or other instruments and is otherwise in accordance with the terms of the CCAA Vesting Order.

20. The provisions of this Order and the Transaction Agreement are non-severable and mutually dependent. To the extent that there are any inconsistencies between the terms of this Order and the CCAA Vesting Order, on the one hand, and the Transaction Agreement, on the other, this Order and the CCAA Vesting Order shall govern.

21. Nothing in this Order shall be deemed to waive, release, extinguish, or estop the Debtors or the Foreign Representative from asserting, or otherwise impair or diminish, any right (including, without limitation, any right of recoupment), claim, cause of action, defense, offset, or counterclaim in respect of any asset or interest that is not a Purchased Asset.

22. All Persons subject to the jurisdiction of the United States are permanently enjoined and restrained from taking any actions inconsistent with, or interfering with, the enforcement and implementation of the CCAA Vesting Order or any documents incorporated by the foregoing and this Order.

23. The Foreign Representative is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion and the CCAA Vesting Order.

24. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

25. Notwithstanding any applicability of any Bankruptcy Rules, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry. For the avoidance of doubt, any stay pursuant to Bankruptcy Rule 6004(h) and 6006(d) is hereby dispensed with and waived.

Dated: February 16th, 2023
Wilmington, Delaware


KAREN B. OWENS
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

CCAA Vesting Order

**SUPERIOR COURT
(Commercial Division)**

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-061483-224

DATE: February 13, 2023

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
SULLAIR, LLC

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Impleaded Party (Buyer)

**APPROVAL, VESTING AND ASSIGNMENT ORDER IN RESPECT OF THE ASSETS
OF CDA SYSTEMS, LLC AND CALIFORNIA COMPRESSION LLC**

- [1] **CONSIDERING** the *Application for the Issuance of an Approval, Vesting and Assignment Order* (the "**Application**") pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended ("**CCAA**") and the exhibits thereto and the affidavit of Mr. Dimitrios Vounassis, filed in support thereof;
- [2] **CONSIDERING** the Sixth Report of the Monitor dated February 10, 2023;
- [3] **CONSIDERING** the submissions of counsel and the testimony of Jean-François Nadon on behalf of the Monitor which lead the Court to the following findings and conclusions;
- (a) That pursuant to the SISP bidding process and in particular the Phase 2 Bid Deadline and following further discussions and negotiations lead by NBF and the Petitioners, the Sullair bid is the most advantageous for the stakeholders;
 - (b) That the Sullair transaction will maintain CDA Systems, LLC and California Compression LLC as a going concern and that it will preserve the employment of 24 individuals;
 - (c) That the transaction will also ensure a certain and more advantageous realization value than a liquidation would have generated;
 - (d) That the transaction provides for the payment of a cash purchase price (which, at this stage, shall remain confidential) as well as the assumption of certain liabilities;
 - (e) That the purchase price excludes the cash on hand of the two entities and any intercompany receivables owing from any of affiliates, including from the other Petitioners.
- [4] **GIVEN** the provisions of the CCAA:
- [5] **CONSIDERING** that it is appropriate to issue an order approving the sale transaction (the "**Transaction**") contemplated by the agreement entitled Asset Purchase Agreement dated February 8, 2023 (the "**Purchase Agreement**")

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between CDA Systems, LLC and California Compression LLC (collectively, the “**Sellers**”), and Sullair, LLC, as buyer, (the “**Buyer**”), a copy of which was filed as **Exhibit P-6 (under seal)** to the Application, and vesting in the Buyer the Purchased Assets.

THE COURT HEREBY:

[6] **GRANTS** the Application.

DEFINITIONS

[7] **DECLARES** that, unless otherwise defined, all capitalized terms in this Order shall have the meaning ascribed thereto in the Purchase Agreement.

SERVICE

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

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

TRANSACTION APPROVAL

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

EXECUTION OF DOCUMENTATION

[11] **AUTHORIZES** the Sellers and the Buyer to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in the Purchase Agreement and any other ancillary document which could be required or useful to give full and complete effect thereto, including the Transaction.

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AUTHORIZATION

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

VESTING OF PURCHASED ASSETS

- [13] **ORDERS AND DECLARES** that upon the issuance of a Monitor's certificate substantially in the form appended as **Schedule "A"** hereto (the "**Monitor's Certificate**"), all rights, title and interest in and to the Purchased Assets shall vest absolutely and exclusively in and with the Buyer, free and clear of and from any and all claims, liabilities (direct, indirect, absolute or contingent), obligations, interests, prior claims, security interests (whether contractual, statutory or otherwise), liens, charges, hypothecs, mortgages, pledges, deemed trusts, assignments, judgments, executions, writs of seizure or execution, notices of sale, options, adverse claims, levies, rights of first refusal or other pre-emptive rights in favour of third parties, restrictions on transfer of title, taxes or other claims or encumbrances, whether or not they have attached or been perfected, registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**"), including, without limiting the generality of the foregoing, all encumbrances created by order of this Court, all charges or security evidenced by registration, publication or filing pursuant to any applicable legislation providing for a security interest in personal or movable property, and those Claims listed on **Schedule "B"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include any permitted encumbrances, easements and restrictive covenants listed on Schedule "C").
- [14] For greater certainty, **ORDERS** that all of the Encumbrances, other than those listed on Schedule "C" hereto, affecting or relating to the Purchased Assets be cancelled and discharged as against the Purchased Assets, in each case effective as of the issuance of the Monitor's Certificate.
- [15] **ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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- [16] **AUTHORIZES AND DIRECTS** the Monitor to use the net proceeds from the sale of the Purchased Assets to pay any and all outstanding invoices of the beneficiaries of the Administration Charge (as defined in the Third ARIO), provided that such payments shall not affect or reduce the quantum of the Administration Charge, but only according to the conditions and limits provided for in the Second DIP Term Sheet (as defined in the Third ARIO).
- [17] **ORDERS** that the Monitor may rely on written notice from the Sellers and the Buyer regarding the fulfillment of conditions to closing under the Purchase Agreement and shall have no liability with respect to the delivery of the Monitor's Certificate.
- [18] **ORDERS** the Monitor to file with the Court a copy of the Monitor's Certificate, as soon as practicable after issuance thereof.
- [19] **ORDERS AND DIRECTS** the Monitor to serve on the service list in the within CCAA proceedings, post on the Monitor's website and file with the Court a copy of the Monitor's Certificate, as soon as practicable after the issuance thereof.

CANCELLATION OF SECURITY REGISTRATIONS

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

ASSIGNMENT OF CONTRACTS

- [21] **ORDERS** and **DECLARES** that upon the issuance of the Monitor's Closing Certificate, the rights and obligations of the Sellers under the agreements listed in **Schedule "D"** hereto, as they may have been amended or restated from time to time (the "**Assumed Contract(s)**"), are automatically and irrevocably assigned to the Buyer without any further consents or approvals of this Court.
- [22] **ORDERS** that all Cure Costs in relation to the Assumed Contracts, which are set out in Schedule D, shall be remedied by the Buyer no later than thirty (30) days following issuance of the Monitor's Closing Certificate.
- [23] **ORDERS** that any anti-assignment, consent-to-assignment or any other provisions restricting or affecting the assignment by either Seller in any of the Assumed Contracts shall not restrict, limit, impair, prohibit or otherwise affect the assignment of any Assumed Contracts or of any Post-Closing Assigned/Assumed Contracts provided by this Order.

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- [24] **ORDERS** that the Assumed Contracts shall be valid and binding and in full force and effect and enforceable by the Buyer in accordance with their terms for the benefit of the Buyer.
- [25] **ORDERS** and **DIRECTS** the Monitor to notify a copy of this Order to each of the counterparties to the Assumed Contracts, if any.
- [26] **AUTHORIZES** the Petitioners, the Buyer and the Monitor to perform all acts, sign all documents and take any other action that could be required or useful to give full effect to the assignment of the Assumed Contracts to the Buyer in accordance with this Order.

PROTECTION OF PERSONAL INFORMATION

- [27] **ORDERS** that, pursuant to sub-section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5 or any similar provision of any applicable provincial legislation (collectively, the "**Applicable Privacy Laws**"), the Petitioners and the Monitor are authorized to disclose and transfer to the Buyer the personal information in the custody or control of the Petitioners set out in the Purchase Agreement (the "**Disclosed Information**"). The Buyer shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Petitioners.
- [28] **ORDERS** that the Buyer shall:
- (a) maintain and protect the Disclosed Information with security safeguards appropriate to the Disclosed information and as may otherwise be required by Applicable Privacy Laws;
 - (b) use and disclose the Disclosed Information for the purposes for which the Disclosed Information was collected by the Petitioners and as may otherwise be permitted by Applicable Privacy Laws; and
 - (c) give effect to any withdrawals of consent of the individuals to whom the Disclosed Information relates.

VALIDITY OF THE TRANSACTION

- [29] **ORDERS** that notwithstanding:
- (a) the pendency of these proceedings;

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

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

THE MONITOR

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

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SEALING

[34] **ORDERS** that Exhibit P-6 to the Application shall be filed under seal and kept confidential until further order of this Court.

GENERAL

[35] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.

[36] **DECLARES** that the Petitioners or the Monitor may, from time to time, apply to this Court for directions concerning the exercise of their respective powers, duties and rights hereunder or in respect of the proper execution of this Order on notice only to each other and the Buyer.

[37] **DECLARES** that the Petitioners and the Monitor shall be entitled to seek leave to vary this Order upon such terms and such notice as this Court deems just.

[38] **REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body in any Province of Canada and any Canadian federal court or in the United States of America, including without limitation the United States Bankruptcy Court for the District of Delaware, and any court or administrative body elsewhere, to give effect to this Order, and to assist the Petitioners, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioners and the Monitor as may be necessary or desirable to give effect to this Order in any foreign proceeding, to assist the Petitioners, the Monitor and their respective agents in carrying out this Order.

[39] **ORDERS** provisional execution of this Order notwithstanding any appeal and without security.

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



Christian Immer, JCS

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

Hearing date: **February 13, 2023**

**SCHEDULE A
CERTIFICATE OF THE MONITOR**

CANADA

**PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

SUPERIOR COURT
(Commercial Division)

(Sitting as a court designated pursuant to
the *Bankruptcy and Insolvency Act*, RSC
1985, c B-3)

No.: 500-11-061483-224

**IN THE MATTER OF THE NOTICE OF
INTENTION TO MAKE A PROPOSAL 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**

Debtor/Petitioners

-and-

DELOITTE RESTRUCTURING INC.

Monitor

CERTIFICATE OF THE MONITOR

RECITALS:

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

WHEREAS on February 13, 2023, the Court issued an Order (the "**Approval, Vesting and Assignment Order**") authorizing and approving, *inter alia*, the execution of a Asset Purchase Agreement dated February 8, 2023 (the "**Purchase Agreement**") between CDA Systems, LLC and California Compression LLC (collectively, the "**Sellers**"), and Sullair, LLC, as buyer, (the "**Buyer**"), with such minor alterations, changes, amendments, deletions or additions thereto as may be agreed to by the Sellers and the Buyer, with the consent of the Monitor.

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

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

- (a) the Purchase Agreement has been executed and delivered;
- (b) the Purchase Price (as defined in the Purchase Agreement) payable upon the closing of the Transaction and all applicable taxes have been paid; and
- (c) all conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

This Certificate was issued by the Monitor on _____ [DATE].

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

Per: _____

Name: _____

Title: _____

SCHEDULE B**ENCUMBRANCES TO BE VESTED***Uniform Commercial Code (California)*

Secured Party(ies)	Debtor(s)	File Number	Description	Date Filed
NATIONAL BANK OF CANADA	CDA SYSTEMS, LLC	U210026524223	All right, title and interest of Debtor in all personal property, wherever located and whether now owned or hereafter owned or acquired by Debtor, whether or not affixed to realty, in all Proceeds and Products thereof in any form, in all parts, accessories, attachments, special tools, additions, replacements, substitutions and accessions thereto or therefor, in all supporting obligations thereof and in all increases or profits received therefrom, including all property from time to time delivered by Debtor to Secured Party and all Goods (including, but not limited to, Equipment, Fixtures, and Inventory), Accounts, Chattel Paper, Documents, Instruments, Investment Property, General Intangibles, Deposit Accounts and Letter- of- Credit Rights.	2/25/2021
NATIONAL BANK OF CANADA	CALIFORNIA COMPRESSION, LLC	U21097074233	All right, title and interest of Debtor in all personal property, wherever located and whether now owned or hereafter owned or acquired by Debtor, whether or not affixed to realty, in all	12/22/2021

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			Proceeds and Products thereof in any form, in all parts, accessories, attachments, special tools, additions, replacements, substitutions and accessions thereto or therefor, in all supporting obligations thereof and in all increases or profits received therefrom, including all property from time to time delivered by Debtor to Secured Party and all Goods (including, but not limited to, Equipment, Fixtures, and Inventory), Accounts, Chattel Paper, Documents, Instruments, Investment Property, General Intangibles, Deposit Accounts and Letter-of-Credit Rights.	
EXPORT DEVELOPMENT CANADA	CALIFORNIA COMPRESSION, LLC	U220200892224	All right, title and interest of Debtor in all personal property, wherever located and whether now owned or hereafter owned or acquired by Debtor, whether or not affixed to realty, in all Proceeds and Products thereof in any form, in all parts, accessories, attachments, special tools, additions, replacements, substitutions and accessions thereto or therefor, in all supporting obligations thereof and in all increases or profits received therefrom, including all property from time to time delivered by Debtor to Secured Party and all Goods (including, but not	6/9/2022

				limited to, Equipment, Fixtures, and Inventory), Accounts, Chattel Paper, Documents, Instruments, Investment Property, General Intangibles, Deposit Accounts and Letter-of-Credit Rights.	
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SCHEDULE C

PERMITTED ENCUMBRANCES

1. Encumbrances associated with, and financing statements evidencing, the rights of equipment lessors under any Personal Property Leases.
2. Encumbrances affecting a landlord's, lessor's, licensor's or sublandlord's, as applicable, interest in any applicable Real Property Leases.
3. Notices registered on title in respect of the Real Property Leases.
4. Applicable municipal by-laws, development agreements, subdivision agreements, site plan agreements, other agreements of similar import, building and other restrictions, easements, servitudes, rights of way and licences as relates to any applicable Real Property Leases.
5. Minor survey exceptions, minor encumbrances, easements or reservations of, or rights of other for, rights-of-way, sewers, electric lines, telephone lines and other similar purposes, or zoning or similar restriction as to the use of any applicable Real Property Leases.
6. Encumbrances expressly permitted in writing by the Buyer.

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SCHEDULE D
ASSUMED CONTRACT

Counterparty	Project	Customer	Cure Costs (USD)
California Compression, LLC	Schnitzer Steel 2023' Main Plant Compressor/Dryer PM Agreement	Schnitzer Steel Industries Inc	-
California Compression, LLC	WADHAM PM SCHEDULE	Wadham Energy L.P.	-
California Compression, LLC	Sonoco Exeter Compressor/Vacuum 2023 PM Agreement	Sonoco Exeter	-
California Compression, LLC	/Earthbound 2022-2023 PM Schedule	Earthbound Farms/ Taylor Farms	-
California Compression, LLC	US PIPE 2022-2023 PM Agreement	US Pipe	-
California Compression, LLC	CARGILL SALT 2022-2023 PM AGREEMENT	Cargill Salt	-
California Compression, LLC	Coherent 2022-2023 PM AGREEMENT	Coherent	-
California Compression, LLC	Teichert Aggregates-Vernalis Plant 22-23 PM Agreement	TEICHERT AGGREGATES	-
California Compression, LLC	SHELL CATALYST PM AGREEMENT	Shell Catalyst & Technologies LP	-
California Compression, LLC	2022 PM AGREEMENT	Zymergen, Inc.	-
California Compression, LLC	2022 Air Systems Services	Gallo Glass	-
California Compression, LLC	Musco 2021-22' PM Agreement	Musco Family Olive Co.	-
California Compression, LLC	BALL METAL 2022 PM AGREEMENT	Sonoco Metal Packaging LLC	-
California Compression, LLC	PP-PM 2021-22 PM Agreement	Ardagh Metal Beverage USA	-
California Compression, LLC	2021 PM AGREEMENT	Northern California Power Agency	-

Counterparty	Distribution Agreement	Distributor	Cure Costs (USD)
CDA Systems, LLC	Industrial Distributor Agreement	Rogers Machinery Company, Inc.	25,743.39 \$
CDA Systems, LLC	Distribution Agreement	SPX Flow Technology USA, Inc.	145,951.66 \$

Counterparty	Lease	Cure Costs (USD)
California Compression, LLC	Lease dated January 14, 2021, between California Compression, LLC and Arroyo/ Livermore Business Park LP in respect of premises located at 4659 Las Positas Rd.	-

CDA Systems, LLC	Standard Industrial/Commercial Multi-Tenant Lease-Net dated April 5, 2017, between CDA Systems, LLC and DJ Smith Family Partnership	-
CDA Systems, LLC	Rental Agreement dated October 1, 2019, between Public Storage and Richard Yue (on behalf of CDA Systems, LLC).	-
Arroyo/Livermore Business Park L.P. and Advanced Air Leak Detection CDA Systems, LLC	Consent and Agreement Regarding Sublease and Control of Tenant and First Amendment of Lease dated August 24, 2021 between Arroyo/Livermore Business Park L.P., California Compression, LLC and Advanced Air Leak Detection Commercial Lease Agreement dated May 2, 2022 between CDA Systems, LLC and 5360 Gateway Plaza LLC	

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