

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

SUPERIOR COURT
(Commercial Division)

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

No.: 500-11-061483-224

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

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

-and-

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

-and-

APPLIED COMPRESSION SYSTEMS LTD.

-and-

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

-and-

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

-and-

ENERPHASE INDUSTRIAL SOLUTIONS, INC.

-and-

CDA SYSTEMS, LLC

-and-

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

-and-

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

-and-

FORMERXBC NOR CORPORATION (formerly
NORTEKBELAIR CORPORATION)

-and-

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

-and-

CALIFORNIA COMPRESSION, LLC

-and-

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

Debtors / Petitioners

-and-

DELOITTE RESTRUCTURING INC.

Monitor

**APPLICATION FOR THE ISSUANCE OF A STAY EXTENSION IN
RESPECT OF FORMERXBC INC. (FORMERLY XEBEC
ADSORPTION INC.)**

**(Sections 11 and 11.02 of the *Companies' Creditors
Arrangement Act*, RSC 1985, c C-36)**

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

I. INTRODUCTION

1. The Debtors / Petitioners in this matter are FormerXBC Inc. (formerly Xebec Adsorption Inc.) ("**BLA**"), 11941666 Canada Inc. (formerly Xebec RNG Holdings Inc.) ("**GNR**"), Applied Compression Systems Ltd. ("**ACS**"), 1224933 Ontario Inc. (formerly Compressed Air International Inc., "**CAI**"), FormerXBC Holding USA Inc. (formerly Xebec Holding USA Inc., "**XHU**"), Enerphase Industrial Solutions, Inc. ("**AIR**"), California Compression, LLC ("**CAL**"), CDA Systems, LLC ("**CDA**"), FormerXBC Adsorption USA Inc. (formerly Xebec Adsorption USA Inc., "**XSU**"), FormerXBC Pennsylvania Company (formerly The Titus Company, "**TIT**"), FormerXBC NOR Corporation (formerly Nortekbelair Corporation, "**NOR**"), FormerXBC Systems USA, LLC (formerly Xebec Systems USA, LLC, "**UEC**"), FormerXBC Flow Services – Wisconsin Inc. (formerly XBC Flow Services – Wisconsin Inc., "**XBC**") (collectively, the "**Petitioners**").
2. By the present *Application for the Issuance of a Stay Extension in respect of FormerXBC Inc. (formerly Xebec Adsorption Inc.)* (the "**Application**"), the Petitioners are seeking the issuance of an order extending the Stay Period (as

defined below) until November 30, 2024 (the “**Extension Date**”), substantially in the form of the draft Order Extending the Stay of Proceedings communicated herewith as **Exhibit P-1** (the “**Draft Order**”).

II. PROCEDURAL BACKGROUND

3. On September 29, 2022, at the Petitioners’ request, the Court issued a First Day Initial Order (the “**FDIO**”) pursuant to the CCAA and a Bidding Procedures Order (the “**Bidding Procedures Order**”), as appears from the Court record.
4. The FDIO, *inter alia*:
 - (a) appointed Deloitte Restructuring Inc. as monitor of the Petitioners’ CCAA proceedings (the “**Monitor**”);
 - (b) ordered a stay of proceedings in respect of the Petitioners and their directors and officers until October 7, 2022, as extended thereafter (the “**Stay**”); and
 - (c) declared that Québec is the “center of main interest” of the Petitioners and, accordingly, authorized the Petitioners to apply, as they may consider necessary or desirable, to any other court, tribunal, regulatory, administrative or other body, wherever located, for orders to recognize and/or assist in carrying out the terms of the Initial Order and any subsequent Orders rendered by this Court in the context of these proceedings, including, without limitation, orders under Chapter 15 of the United States Bankruptcy Code 11 U.S.C. §§ 101-1532.
5. The Bidding Procedures Order, *inter alia*, approved the proposed Sale and Investment Solicitation Process (the “**SISP**”) and its implementation in accordance with the Procedures for the Sale and Investment Solicitation Process annexed thereto as Schedule “A”, as appears from the Court record.
6. The Bidding Procedures Order also approved the engagement of National Bank Financial Inc. to assist in the implementation of the SISP.
7. On October 20, 2022, at the Petitioners’ request, the Court issued an Amended and Restated Initial Order (the “**ARIO**”) pursuant to the CCAA, as appears from the Court record.
8. The ARIO, *inter alia*, extended the Stay until November 28, 2022.
9. On February 3, 2023, at the Petitioners’ request, the Court issued a Second Amended and Restated Initial Order (the “**Second ARIO**”), pursuant to the CCAA, as appears from the Court record.
10. The Second ARIO, *inter alia*, extended the Stay until February 13, 2023.

11. On February 13, 2023, at the Petitioners' request, the Court issued a Third Amended and Restated Initial Order (the "**Third ARIO**"), pursuant to the CCAA, as appears from the Court record.
12. The Third ARIO, *inter alia*, extended the Stay until March 17, 2023.
13. On the same date, the Court also issued an Approval and Vesting Order with respect to the sale of substantially all assets of CDA and CAL (the "**Sullair Transaction**").
14. On February 17, at the Petitioners' request, the Court issued an Approval, Vesting and Assignment Order with respect to the sale of substantially all assets of BLA and CAI (the "**Ivys Transaction**").
15. The 1396905 Transaction, Sullair Transaction and Ivys Transaction closed on or about February 7, February 21 and February 24, 2023, respectively.
16. On March 16, 2023, at the Petitioners' request, the Court issued a Fourth Amended and Restated Initial Order (the "**Fourth ARIO**"), pursuant to the CCAA, as appears from the Court record.
17. The Fourth ARIO, *inter alia*, extended the Stay until May 5, 2023.
18. On the same date, the Court also issued:
 - (a) an Approval, Vesting and Assignment Order with respect to the sale of substantially all assets of TIT (the "**Fluid-Aire Transaction**");
 - (b) an Approval, Vesting and Assignment Order with respect to the sale of substantially all assets of XBC (the "**Total Energy Transaction**"); and
 - (c) an Approval, Vesting and Assignment Order with respect to the sale of substantially all assets of UEC (the "**EnergyLink Transaction**");the whole as appears from the Court record.
19. On March 27, 2023, at the Petitioners' request, the Court issued a Fifth Amended and Restated Initial Order (the "**Fifth ARIO**"), pursuant to the CCAA, as appears from the Court record.
20. The Fluid-Aire Transaction, Total Energy Transaction and EnergyLink Transaction closed on March 20, March 23 and April 5, 2023, respectively.
21. On May 5, 2023, at the Petitioners' request, the Court issued an order extending the Stay to May 24, 2023, as appears from the Court record.
22. On May 24, 2023, the Court issued an order (the "**Stay Order**"), extending the Stay to September 29, 2023, and an order establishing a claims bar date of July 24,

- 2023 for the filing of proofs of claim with the Monitor and establishing the procedure for the filing and determination of such proofs of claim (the “**Claims Procedure Order**”), as appears from the Court record.
23. On the same date, the Court also issued an Approval, Vesting and Assignment Order with respect to the sale of the biostream assets of UEC (the “**Biostreams Transaction**”).
 24. The Biostreams Transaction closed on April 5, 2023.
 25. On June 29, 2023, at the Monitor’s request, the Court issued the *Order to Approve a Proposed Allocation Plan* (the “**Allocation Order**”), approving, *inter alia*, a proposed methodology to allocate (i) the net proceeds held in trust by the Monitor, (ii) the intercompany transactions, and (iii) the restructuring costs, secured debt reimbursements and DIP financing, as appears from the Court record.
 26. On September 29, 2023, at the Petitioners’ request, the Court issued an order extending the Stay to December 15, 2023, as appears from the Court record.
 27. On November 1, 2023, at the Petitioners’ request, the Court notably issued the Plan Filing and Meeting Order, as appears from the Court record. This order, *inter alia*, authorized the Plan Debtors to file the Plans and convene the meetings of creditors (to be held simultaneously), and approved the Plan Support Agreement with Export Development Canada (“**EDC**”), which allowed the Petitioners to put forward the Plans as contemplated, for the benefit of all stakeholders.
 28. Also on November 1, 2023, at the Petitioners’ request, the Court issued an order authorizing the review of certain late claims, as appears from the Court record.
 29. On December 15, 2023, at the Petitioners’ request and as appears from the Court record, the Court issued:
 - (a) the Sanction Order, sanctioning, *inter alia*, the Plans of Compromise of each of ACS, AIR, CAI, CDA, CAL, NOR, TIT, UEC, XBC, XHU and XSU;
 - (b) an order extending the Stay to March 27, 2024 (the “**Stay Period**”);
 - (c) an order authorizing the review of two additional late claims; and
 - (d) an Order Approving a Settlement Agreement in respect of the London RNG Settlement.
 30. On February 14, 2024 (the “**Plan Implementation Date**”), the Monitor issued a certificate confirming that all of the conditions precedent to implementation of each Plan have been satisfied or waived and confirming the implementation of each Plan, as appears from the Court record.

III. RESTRUCTURING EFFORTS SINCE THE ISSUANCE OF THE SANCTION ORDER

31. On March 15, 2024, following the Plan Implementation Date and further to the Sanction Order, the Monitor “crystallized” the amounts held in trust as part of the Net Proceeds to be used to calculate the Distribution Proceeds.
32. On March 20, 2024, the Monitor initiated a first distribution to Affected Creditors in accordance with each Plan and provided each Affected Creditor with a letter providing the relevant details pertaining to this distribution.
33. Furthermore, since the issuance of the Sanction Order, the Petitioners, *inter alia*:
 - (a) sought and obtained the issuance of the U.S. Recognition Order in respect of each Plan before the U.S. Court;
 - (b) administered and determined in a definitive manner the Proven Claims of the Plan Debtors’ creditors;
 - (c) executed the settlement agreements the with London RNG parties and with Haffner Energy S.A., such that there are no pending unresolved claims in the Claims Process against the directors and officers of any of the Petitioners, including BLA;
 - (d) assisted the Monitor with the implementation of each Plan and the determination of the distributions and payments to be made to Affected Creditors in accordance with each Plan;
 - (e) continued to wind down the Petitioners’ activities and corporate structure, in consultation with the Monitor; and
 - (f) managed various issues in respect of non-filing Xebec Group entities outside North America (the “**Overseas Entities**”).

IV. GROUNDS FOR THE EXTENSION OF THE STAY OF PROCEEDINGS

34. The Petitioners have acted and continue to act in good faith and with due diligence.
35. The Stay Period currently expires on March 27, 2024.
36. The extension of the Stay Period to the Extension Date (November 30, 2024) is required to provide BLA, with the assistance of the Monitor, with sufficient time to, *inter alia*:
 - (a) assist the Monitor, if necessary, with further distributions to Affected Creditors in accordance with each Plan;

- (b) in the event that there is an immaterial amount remaining after distributions, assist the Monitor in determining the amount that should properly be distributed to EDC pursuant to the Plans and the EDC Support Agreement, with any remaining balance to be donated to the charitable organizations Centraide du Grand Montréal and Welcome Collective equally;
 - (c) finalize the wind down of the Petitioners' activities and the dissolution of ACS, CAI and the Petitioners that are in the United States, in consultation with the Monitor;
 - (d) proceed with the closing of remaining bank accounts;
 - (e) effect the bankruptcy of any Petitioner, if necessary;
 - (f) finalize the dissolution and/or bankruptcy of certain Overseas Entities of the FormerXBC Group, as further detailed in the fourteenth report of the Monitor to be filed prior to the hearing on the Application (the "**Fourteenth Monitor's Report**");
 - (g) allow for the potential recovery relating to claims that BLA asserts in relation Overseas Entities, notably in Germany and in Italy;
 - (h) take any and all actions as they may be necessary or appropriate to comply with applicable tax withholding and reporting requirements; and
 - (i) allow for the collection of sales tax returns.
37. Considering that the Plans and the releases contained therein have been implemented, the Petitioners having filed Plans are not seeking an extension of the Stay Period. In addition, GNR was dissolved on January 15, 2024.
38. Accordingly, only the parent company BLA is seeking an extension, to continue advancing and finalizing the tasks listed above. Should these remaining steps be completed before the end of the proposed Stay Period, it is possible that a bankruptcy process will be initiated prior to its expiry.
39. The Petitioners have paid any remaining suppliers, employees and other creditors for the outstanding and payable sums due from the date of the Sanction Order in the ordinary course of business and intend to continue doing so.
40. The Petitioners' cash flow is sufficient to continue operations up to and until the Extension Date, as will appear from the Fourteenth Report of the Monitor.
41. No creditor will be unduly prejudiced by the extension sought.

V. CONCLUSION

42. The Monitor has informed the Petitioners that it supports the issuance of the order sought herein and its report will confirm same.
43. The Petitioners respectfully seek provisional execution of the order to be rendered on the present Application notwithstanding appeal, considering that the relief sought herein is beneficial for the Petitioners' stakeholders, and a stay of execution thereof would be detrimental to the Petitioners' creditors.
44. For the reasons set forth above, the Petitioners respectfully submit that it is both appropriate and necessary that this Honourable Court render the order sought herein.

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

GRANT the present *Application for the Issuance of a Stay Extension in Respect of FormerXBC Inc. (formerly Xebec Adsorption Inc.)*;

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

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

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

MONTREAL, March 20, 2024



Osler, Hoskin & Harcourt LLP

Mtre. Sandra Abitan | Mtre. Julien Morissette |
Mtre. Sophie Courville-Le Bouyonnec
Attorneys for Debtors / Petitioners

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Our file: 1233913

AFFIDAVIT

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

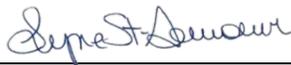
1. I am the President and CEO of FormerXBC Inc. (formerly Xebec Adsorption Inc.) and a duly authorized representative of the Debtors / Petitioners for the purposes hereof.
2. I have taken cognizance of the attached *Application for the Issuance of a Stay Extension in Respect of FormerXBC Inc. (formerly Xebec Adsorption Inc.)* (the "**Application**").
3. All of the facts alleged in the Application of which I have personal knowledge are true.
4. Where I have obtained facts alleged in the Application from others, I believe them to be true.

AND I HAVE SIGNED:



Dimitrios Vounassis

SOLEMNLY DECLARED BEFORE ME BY
TECHNOLOGICAL MEANS IN
MONTRÉAL, QUÉBEC, ON MARCH 20,
2024.



Lyne St-Amour
Commissioner for Oaths for the Province of
Québec



**NOTICE OF PRESENTATION
COMMERCIAL DIVISION**

TO: SERVICE LIST (See attached)

1. PRESENTATION OF THE PROCEEDING

TAKE NOTE that the *Application for the Issuance of a Stay Extension in Respect of FormerXBC Inc. (formerly Xebec Adsorption Inc.)* will be presented for adjudication before the Commercial Division of the Superior Court of Québec at the Montréal Courthouse during the virtual calling of the roll on **March 26, 2024, at 1:45 p.m., in a room to be determined by the Court and communicated to the Service List.**

2. HOW TO JOIN THE HEARING OF THE ROLL

The contact information to join the hearing of the roll in room ● is as follows:

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

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

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

Trustees: Name, Surname (trustee)

Superintendent: Name, Surname (superintendent)

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

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

By telephone:

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

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

Conference ID: ●

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

Videoconference ID: ●

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

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

3. DEFAULT TO PARTICIPATE IN THE HEARING

TAKE NOTICE that in accordance with the Second Amended and Restated Initial Order, if you wish to contest this Application, you must serve responding materials or a notice stating the objection to the Application and the grounds for such objection in writing to the Petitioners and the Monitor, with a copy to all persons on the Service List, no later than **5:00 P.M. on March 23, 2024**, and participate at the hearing, failing which, judgment may be rendered during the presentation of the proceeding, without further notice or delay.

4. OBLIGATIONS

4.1 Duty of cooperation

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

4.2 Dispute prevention and resolution processes

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

DO GOVERN YOURSELF ACCORDINGLY.

MONTRÉAL, March 20, 2024



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

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

SUPERIOR COURT
(Commercial Division)

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

No.: 500-11-061483-224

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

FORMERXBC INC. (formerly **XEBEC ADSORPTION
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-and-

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

-and-

CALIFORNIA COMPRESSION, LLC

-and-

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

Debtors / Petitioners

-and-

DELOITTE RESTRUCTURING INC.

Monitor

LIST OF EXHIBITS

EXHIBIT P-1: Draft Order Extending the Stay of Proceedings

MONTREAL, March 20, 2024



Osler, Hoskin & Harcourt LLP
Attorneys for Debtors / Petitioners

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-061483-224

DATE: March 26, 2024

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

IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF:

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

and

DELOITTE RESTRUCTURING INC.
Monitor

Draft

ORDER EXTENDING THE STAY OF PROCEEDINGS

- [1] **CONSIDERING** the *Application for the Issuance of a Stay Extension in respect of FormerXBC Inc. (formerly Xebec Adsorption Inc.)* (the “**Application**”) pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended (“**CCAA**”) and the exhibits and the affidavit of Mr. Dimitrios Vounassis, filed in support thereof;
- [2] **CONSIDERING** the Fourteenth Report of the Monitor dated March ●, 2024;
- [3] **CONSIDERING** the submissions of counsel;
- [4] **CONSIDERING** the testimony of the representative of the Monitor;
- [5] **GIVEN** the provisions of the CCAA;
- [6] **GIVEN** the Fifth Amended and Restated Initial Order rendered by the Court on March 27, 2023 (the “**Fifth ARIO**”);

THE COURT HEREBY:

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

STAY EXTENSION

- [8] **EXTENDS** the Stay Period (as defined in the Fifth ARIO), solely in respect of FormerXBC Inc., until November 30, 2024, at 11:59 p.m. (Montreal time).

GENERAL

- [9] **DECLARES** that this Order and all other orders in these proceedings shall have full force and effect in all provinces and territories in Canada.
- [10] **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.
- [11] **ORDERS** the provisional execution of this Order notwithstanding appeal and without security.

Draft

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

Christian Immer, J.S.C.

MTRE SANDRA ABITAN
MTRE JULIEN MORISSETTE
MTRE SOPHIE COURVILLE-LE BOUYONNEC
(OSLER HOSKIN & HARCOURT LLP)
COUNSEL TO THE PETITIONERS

Hearing date: March 26, 2024

Draft

No: 500-11-061483-224

**SUPERIOR COURT
(Commercial Division)**

(Sitting as a court designated pursuant to the
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DISTRICT OF MONTRÉAL

**IN THE MATTER OF THE COMPROMISE OR
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FORMERXBC INC. & AL

Debtors / Petitioners

and.

DELOITTE RESTRUCTURING INC.

Monitor

**APPLICATION FOR THE ISSUANCE OF A STAY
EXTENSION IN RESPECT OF FORMERXBC INC.
(FORMERLY XEBEC ADSORPTION INC.),
AFFIDAVIT, NOTICE OF PRESENTATION, LIST
OF EXHIBITS, EXHIBIT P-1 (Sections 11 and
11.02 of the *Companies' Creditors Arrangement
Act*, RSC 1985, c C-36)**

ORIGINAL

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Our file: 1233913