

**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

**DECLARATION OF SANDRA ABITAN, AS CANADIAN COUNSEL TO
THE DEBTORS, IN SUPPORT OF FOREIGN REPRESENTATIVE’S MOTION FOR
ENTRY OF ORDER (I) RECOGNIZING AND ENFORCING THIRD AMENDED AND
RESTATED CCAA ORDER; AND (II) AUTHORIZING JUNIOR DIP FINANCING**

I, Sandra Abitan, pursuant to 28 U.S.C. § 1746, hereby declare under penalty of perjury under the laws of the United States, as follows:

1. I am the Managing Partner of the Montréal office of Osler, Hoskin & Harcourt LLP. My practice is dedicated to restructuring and insolvency matters. I regularly advise and represent debtors, court-appointed officers, secured lenders, unsecured creditors and distressed asset purchasers, including in proceedings under the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). I have been retained as Canadian counsel to the above-captioned debtors (the “**Debtors**”), in Canadian proceedings (the “**Canadian Proceeding**”) commenced under the CCAA and pending before the Superior Court of Québec (Commercial Division) in the District of Montréal (the “**Canadian Court**”). I am authorized to provide this declaration on behalf of the Debtors.

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. I submit this declaration (“**Declaration**”) in support of the *Foreign Representative’s Motion for Entry of Order (I) Recognizing and Enforcing Third Amended and Restated CCAA Order; and (II) Authorizing Junior DIP Financing* (the “**Junior DIP Motion**”), filed concurrently herewith. Capitalized but undefined terms shall have the meanings set forth in the Junior Motion.

3. In preparing this Declaration, I reviewed the (a) Junior DIP Motion; (b) the Canadian Application; (c) other relevant filings in these chapter 15 cases and in the Canadian Proceeding; and (d) the relevant provisions of the CCAA as they relate to debtor-in-possession financing and cross-border insolvencies or these chapter 15 cases.

4. All facts set forth in this Declaration are based on: (a) my knowledge; (b) my review of relevant documents; (c) my opinion based upon my experience and knowledge of Canadian law and the Debtors’ operations; or (d) information provided to me by the Debtors or their advisors. If called upon to testify, I could and would testify to the facts set forth herein.

5. This Declaration contains statements of legal opinion or statements of fact. Where the matters stated in this Declaration are statements of legal opinion, such statements are based upon my experience as a practicing lawyer admitted and licensed to practice in the Province of Québec, Canada.

6. I previously submitted that certain *Declaration of Sandra Abitan as Canadian Counsel to the Debtors in Support of Motion for Recognition of Foreign Main Proceeding and Request for Certain Related Relief* [Docket No. 4], which is I fully incorporate herein by reference.

7. On September 29, 2022, pursuant to an application made by the Debtors in the Canadian Proceeding, the Canadian Court issued that certain First Day Initial Order (the “**Initial**

CCAA Order”). Pursuant to the Initial CCAA Order, the Canadian Court, among other things: (a) ordered a broad stay of proceedings in respect of the Debtors and their directors and officers (the “**Canadian Stay**”); (b) appointed Deloitte Restructuring Inc. as monitor in the Canadian Proceeding; (c) declared that Québec is the “centre of main interest” of the Debtors, and (d) authorized the Debtors to apply to any other court, tribunal, regulatory, administrative, or other body, wherever located, for orders to recognize and assist in carrying out the terms of the Initial CCAA Order and any subsequent orders rendered by the Canadian Court in the context of the Canadian Proceeding, including orders under chapter 15 of the Bankruptcy Code.

8. On February 3, 2023, the Canadian Court entered an order extending the Canadian Stay until February 13, 2023. The Debtors have requested an extension of the stay to March 17, 2023.

9. On February 8, 2023, the Debtors filed that certain *Application for the Issuance of a Third Amended and Restated Initial Order and Approval and Vesting Orders* (the “**Canadian Application**”) in the Canadian Proceeding, pursuant to which the Debtors seek, among other things: (a) authority to obtain the Junior DIP Loan in the aggregate amount not to exceed CAD\$2,500,000; and (b) approval of the grant of the Junior DIP Charge to the Lender in the amount of CAD\$3,000,000. A copy of the Canadian Application is attached to the Junior DIP Motion as Exhibit B.

10. On proper notice by the Debtors under the CCAA, the Canadian Court has set a hearing on February 13, 2023, to consider the Canadian Application, including whether to authorize the Debtors to enter into the Junior DIP Facility and grant the Junior DIP Charge. In accordance with Canadian law and practice, the Debtors filed the Junior DIP Loan Term Sheet under seal with the Canadian Court.

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury that, based upon my knowledge, information, and belief as set forth herein, the foregoing is true and correct.

Dated: February 10, 2023

/s/ Sandra Abitan

Sandra Abitan

Canadian Counsel to the Debtors