

**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)

Joint Administration Requested

**DECLARATION OF DIMITRIOS “JIM” VOUNASSIS IN SUPPORT OF
FOREIGN REPRESENTATIVE’S MOTION FOR INTERIM AND FINAL
RELIEF RECOGNIZING AND ENFORCING DIP FINANCING
AUTHORIZED UNDER AMENDED AND RESTATED CCAA ORDER**

I, Dimitrios “Jim” Vounassis, 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 President and Chief Executive Officer of Xebec Adsorption Inc., which is the duly-appointed foreign representative (“**Foreign Representative**”) of the above-captioned debtors (the “**Debtors**”), in Canadian proceedings (the “**Canadian Proceeding**”) commenced under the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), pending before the Superior Court of Québec in the Commercial Division in the District of Montreal (the “**Canadian Court**”). I am authorized to provide this declaration on behalf of the Foreign Representative.

2. I joined Xebec Adsorption Inc. in May 2021, in the role of Chief Operating Officer, and I became President and Chief Executive Officer in March 2022.

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: 700-1130 Sherbrooke Street West, Montréal, Québec H3A 2M8.

3. Before joining Xebec Adsorption Inc., I worked at Bombardier Transportation, now part of Alstrom, one of the world's largest rail equipment manufacturing companies, as Chief Operating Officer. Prior to being appointed Chief Operating Officer at Bombardier Transportation, I held the position of Chief Transformation and Procurement Officer at Bombardier Corporation. Prior to that, I held positions as Vice President Global Operations at Pharmascience, Vice President Global Manufacturing and Strategic Sourcing at Baker Hughes, and Vice President Global Strategic Sourcing at Pratt and Whitney. I graduated from University of Waterloo with an Honours Bachelor of Science in Mechanical Engineering, and I completed an Executive MBA at the Smith School of Business at Queen's University.

4. I respectfully submit this declaration in support of the *Foreign Representative's Motion for Interim and Final Relief Recognizing and Enforcing DIP Financing Authorized under Amended and Restated CCAA Order* (the "**DIP Recognition Motion**") filed concurrently herewith.

5. The Debtors and certain non-U.S. based subsidiaries and affiliates of the Debtors (the "**Xebec Group**") primarily supply a wide range of renewable and low-emission gas products and services globally through several channels, including direct sales, channel partners, project developers, and e-commerce. The Xebec Group portfolio includes proprietary technologies for the on-site and distributed production of hydrogen, renewable and low-emission natural gas, oxygen and nitrogen, and proprietary technologies that transform raw gases into clean sources of renewable energy. The Xebec Group's operations include manufacturing, research and development, service, and sales. The Xebec Group operates in North America, Europe, the Middle East, and Asia.

6. Detailed information about the Debtors' business and operations, the events leading to the filing of these chapter 15 cases, and the facts and circumstances surrounding the Canadian Proceeding, are set forth in the the *Declaration of Dimitrios "Jim" Vounassis in Support of Motion for Recognition of Foreign Main Proceeding* [Docket No. 3] ("**Recognition Motion Declaration**"), filed on September 30, 2022, which is fully incorporated 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 Canadian Order**") pursuant to the CCAA.

8. After entry of the Initial Canadian Order by the Canadian Court and the filing of the *Motion for Recognition of Foreign Main proceeding and Request for Certain Related Relief* [Docket No. 7] (the "**Recognition Motion**"), the Debtors negotiated and entered into that certain Interim Financing Term Sheet (the "**DIP Term Sheet**") with their prepetition lenders, National Bank of Canada ("**NBC**") and Export Development Canada ("**EDC**," and together with NBC, the "**Interim Lenders**").

9. Under the DIP Term Sheet, the Interim Lenders will loan, on a *pari passu* basis, up to CAD\$3,000,000 (the "**Facility Amount**") during the Canadian Proceeding (the "**DIP Facility**").

10. As detailed further in the Recognition Motion Declaration, prepetition, NBC had a senior lien on the Xebec Group's Canadian assets and a junior lien on the U.S. assets, while EDC had a senior lien on U.S. assets and a junior lien on Canadian assets.

11. On October 18, 2022, the Xebec Group submitted an Application for the Issuance of an Amended and Restated Initial Order in the Canadian Proceeding (the "**DIP Application**"), which sought, among other relief, approval of the DIP Facility.

A. The DIP Process

12. National Bank Financial Inc. (“NBF”), the Debtors’ Canadian Court-approved investment banker, completed a targeted solicitation to identify parties interested in providing interim funding to the Debtors.

13. NBF solicited bids from fifteen potential interim lenders, including existing stakeholders and alternative lenders. Eight potential lenders signed confidentiality agreements giving them access to the virtual data room for due diligence purposes.

14. Only the Interim Lenders agreed to support the Debtors’ restructuring efforts by providing debtor-in-possession financing.

B. Terms of the DIP Facility

15. The DIP Facility is a revolving multiple draw credit facility up to a maximum principal amount of CAD\$3,000,000 (the “**Facility Amount**”).

16. The DIP Facility will terminate on February 3, 2023, unless the maturity date of the DIP Facility is extended by agreement of the Interim Lenders.

17. The DIP Facility is secured by the liens created by the DIP Charge, which constitute liens on all of the Debtors’ present and future assets, up to a maximum amount of CAD\$3,600,000, which DIP Charge will have priority over all other security interests, hypothecs, charges, and liens, except the D&O Charge and Administrative Charge.

18. During the negotiations of the DIP Term Sheet, the Interim Lenders indicated to the Debtors that the Interim Lenders would not provide financing without the DIP Charge.

C. Necessity of the DIP Loan

19. As provided more fully in the Recognition Motion Declaration, the Debtors initiated the Canadian Proceeding and these chapter 15 cases because, following extensive analysis

and consideration, in light of their financial situation, the Debtors concluded that their only alternative was to engage in a formal restructuring process in order to achieve the best possible outcome for their stakeholders.

20. With the assistance of their advisors and upon the recommendation of the Special Committee (as defined in the Recognition Motion Declaration), the Debtors determined that the best course of action includes the implementation of a sale and investment solicitation process in the Canadian Proceeding, in order to maximize value of the Debtors' business while maintaining going concern operations, a further streamlining of their operations, and a divestiture of their non-core assets.

21. The Debtors continue to operate under significant liquidity constraints and require access to the DIP Loan to fund working capital requirements, capital expenditures, general corporate expenses, and the costs of administering the Canadian Proceeding and these chapter 15 cases.

22. The Debtors' employees are a key component to the success of the proposed sale process and/or any future compromise or arrangement in the Canadian Proceeding.

23. Without the DIP Facility, the Debtors believe they would have no alternative but to implement drastic cost-reducing measures to safeguard liquidity and continue the sale process, which could include layoffs of up to 60% of the Debtors' North American workforce and the suspension of operations in multiple of the Debtors' facilities.

24. The Debtors believe that such measures would greatly impair the sale process and/or any future compromise or arrangement in the Canadian Proceeding and the value of the Debtors' business and assets, to the detriment of their creditors and other stakeholders.

25. The DIP Loan will significantly improve the Debtors' cash flow and will prevent these cost-cutting measures.

26. In addition to providing the Debtors with the liquidity necessary to operate and consummate a potential sale process, the DIP Loan will help to preserve the Debtors' business by providing assurance to their employees, suppliers, and customers that they can maintain their business operations and satisfy their obligations pending the outcome of the Canadian Proceeding and these chapter 15 cases.

27. The Debtors believe the solicitation process conducted by NBF was robust, and they do not believe they would be able to obtain the necessary financing from another source.

28. The Debtors believe the terms of the DIP Facility were negotiated in good faith, and they are fair and reasonable under the circumstances.

29. The Interim Lenders have informed the Debtors that the Interim Lenders will not loan the full Facility Amount absent entry of the Interim Order and a Final Order. The Debtors believe that their restructuring efforts cannot succeed without the support of the Interim Lenders, who will not loan the full Facility Amount absent entry of a Final Order. Absent entry of the Interim Order with the protections under section 364 of the Bankruptcy Code, as required by the Interim Lenders, the Debtors cannot obtain the financing for a successful restructuring. To that end, the Debtors have worked diligently with the Interim Lenders and have obtained their agreement on the Initial Order and a Final Order.

30. In addition, entry of the Interim Order will enable the Debtors to continue to finance their operations during the interim period, which the Debtors' believe will ensure preservation and maximization of the value of the Debtors' assets for the benefit of the Debtors' stakeholders.

31. Accordingly, the Foreign Representatives and the Debtors believe, and respectfully submit, that the recognition and enforcement of the terms, conditions, and provisions of the Amended and Restated CCAA Order and granting the protections afforded by the Bankruptcy Code to the Interim Lenders, as requested in the DIP Recognition Motion, which will allow for the full funding of the Facility Amount, constitutes the best option available in the circumstances to preserve the value of the Debtors' assets and to enable the Debtors to complete the sale process and/or any future compromise or arrangement in the Canadian Proceeding, for the benefit of their creditors and stakeholders.

[Signature Page Follows]

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: October 26th, 2022



Dimitrios "Jim" Vounassis
President and CEO of Xebec Adsorption Inc.