

**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

Hearing Date:

January 12, 2023, at 9:30 a.m. (ET)

Objection Deadline:

January 5, 2023, at 4:00 p.m. (ET)

**NOTICE OF MOTION FOR ENTRY OF AN ORDER (A) APPROVING
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**

PLEASE TAKE NOTICE that on December 21, 2022, Xebec Adsorption Inc., in its capacity as the authorized foreign representative (the "Foreign Representative") for the above-captioned debtors (collectively, the "Debtors") filed the *Motion for Entry of an Order (A) Approving 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* (the "Noticing Procedures Motion"), seeking entry of an order (a) approving noticing and objection procedures for the filing of a motion (a "U.S. Sale Motion") by the Debtors, which will seek entry of an order (i) approving the sale of certain of the Debtors' assets located in the United States, free and clear of liens, claims, encumbrances, and interests under section 363 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"); (ii) authorizing the assumption and assignment of executory contracts and unexpired leases; and (iii) recognizing and enforcing an order approving a sale of the Debtors' assets (the "Canadian Sale Order"), entered by the Superior Court of Québec, in the Province of Québec, District of Montréal (the "Canadian Court"), in a proceeding (the "Canadian Proceeding") commenced under Canada's Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended; (b) seeking an expedited hearing on the U.S. Sale Motion; and (c) granting related relief. A true and correct copy of the Noticing Procedures Motion is attached hereto as **Exhibit A**.

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.

PLEASE TAKE FURTHER NOTICE that the Bankruptcy Court has scheduled a hearing for **January 12, 2023, at 9:30 a.m. (prevailing Eastern time)**, before the Honorable Karen B. Owens (the "Hearing") to consider the relief requested in the Noticing Procedures Motion.

PLEASE TAKE FURTHER NOTICE that any party in interest wishing to submit a response, answer, or objection to the Noticing Procedures Motion must do so pursuant to the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, and such response, answer, or objection must (a) be in writing, (b) set forth in detail the factual and legal bases therefor, (c) be filed with the Office of the Clerk of the Court, 824 Market Street, Wilmington, Delaware 19801, and (d) be served upon counsel for the Foreign Representative, McDonald Hopkins LLC, 300 North LaSalle Street, Suite 1400, Chicago, Illinois 60654, Attn: Josh Gadharf, jgadharf@mcdonaldhopkins.com, and Bielli & Klauder, LLC, 1204 North King Street, Wilmington, Delaware 19801, Attn: David M. Klauder, dklauder@bk-legal.com, so as to be received **January 5, 2023 at 4:00 p.m. (prevailing Eastern time)**.

PLEASE TAKE FURTHER NOTICE that the Debtors are conducting a sale process in Canada for the sale of substantially all of their assets, including the Debtors' assets located in the United States, in accordance the Sale and Investment Solicitation Process approved by the Canadian Court (the "Bidding Procedures").

PLEASE TAKE FURTHER NOTICE that, pursuant to the Bidding Procedures, an auction, if necessary, is currently scheduled for the week of January 9, 2023, and the Debtors anticipate selecting a successful bidder(s) and completing definitive sale documentation on or before January 27, 2023.

PLEASE TAKE FURTHER NOTICE that, during the week of January 30, 2023, the Debtors anticipate seeking a Canadian Sale Order. The Bidding Procedures set February 7, 2023, as the outside date by which a sale must close.

PLEASE TAKE FURTHER NOTICE that, should the Canadian Court enter a Canadian Sale Order, the Foreign Representative intends on filing a motion in these chapter 15 cases (a "U.S. Sale Motion") seeking expedited relief of, among other things: (a) approval, pursuant to section 363 of the Bankruptcy Code, of the sale(s) of the Debtor's United States assets; and (b) recognition and enforcement of such Canadian Sale Order.

PLEASE TAKE FURTHER NOTICE that, by the Noticing Procedures Motion, the Foreign Representative has requested an expedited hearing on the U.S. Sale Motion for **February 3, 2023, at 1:30 p.m. (prevailing Eastern time)**.

PLEASE TAKE FURTHER NOTICE THAT ANY PARTY WISHING TO RECEIVE SERVICE OF THE U.S. SALE MOTION VIA OVERNIGHT MAIL, SHALL SUBMIT A REQUEST TO COUNSEL TO THE FOREIGN REPRESENTATIVE VIA: (A) EMAIL TO JGADHARF@MCDONALDHOPKINS.COM, OR (B) U.S. MAIL OR OVERNIGHT MAIL TO: MCDONALD HOPKINS LLC, 300 NORTH LASALLE STREET, SUITE 1400, CHICAGO, ILLINOIS 60654, ATTN: JOSH GADHARF.

PLEASE TAKE FURTHER NOTICE that copies of the Noticing Procedures Motion, any U.S. Sale Motion, and related filings in these chapter 15 cases are also available (a) on the Monitor’s case-specific website: <https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx>; (b) on the Bankruptcy Court’s Electronic Case Filing System, which can be accessed from the Bankruptcy Court’s website at <http://www.ecf.deb.uscourts.gov> (a PACER login and password are required) or (c) upon request to counsel to the Foreign Representative, via email to jgadhaf@mcdonaldhopkins.com, or via U.S. Mail or overnight mail to: McDonald Hopkins LLC, 300 North LaSalle Street, Suite 1400, Chicago, Illinois 60654, Attn: Josh Gadharf.

PLEASE TAKE FURTHER NOTICE that all parties in interest opposed to the Noticing Procedures Motion must appear at the Hearing at the time and place set forth herein, which may be adjourned from time to time without further notice except for an “in court” announcement at the Hearing or a filing on the docket of these chapter 15 cases of the date and time to which the Hearing has been adjourned.

PLEASE TAKE FURTHER NOTICE THAT IF NO RESPONSES OR OBJECTIONS ARE RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED BY THE FOREIGN REPRESENTATIVE WITHOUT FURTHER NOTICE OR HEARING.

Dated: December 21, 2022
Wilmington, Delaware

BIELLI & KLAUDER, LLC

/s/ David M. Klauder

David M. Klauder, Esquire (No. 5769)
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- and -

MCDONALD HOPKINS LLC

David A. Agay (*pro hac vice* admission pending)
Joshua A. Gadharf (*pro hac vice* admission pending)
Ashley J. Jericho (*pro hac vice* admission pending)
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Counsel for the Foreign Representative

Exhibit A

Noticing Procedures Motion

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:

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Debtors in a foreign proceeding.¹

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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**

Xebec Adsorption Inc., in its capacity as the authorized foreign representative (the “**Foreign Representative**”) for the above-captioned debtors (collectively, the “**Debtors**”) in a proceeding (the “**Canadian Proceeding**”) commenced under Canada’s Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and pending before the Superior Court of Québec, in the Province of Québec, District of Montréal (the “**Canadian Court**”), respectfully submits this motion (this “**Noticing Procedures Motion**”) requesting the entry of an order substantially in the form attached hereto as **Exhibit A**: (a) approving noticing procedures for a motion to approve the sale of the Debtors’ assets under to 11 U.S.C. § 363 and for recognition and enforcement of a Canadian Court order approving such sale; (b) setting a sale

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.

hearing; and (c) granting related relief.

In support of the relief requested herein, the Foreign Representative refers the Court to the *Declaration of Sandra Abitan, as Canadian Counsel to the Debtors, in Support of Motion for Entry of an Order (A) Approving 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* (the “**Abitan Declaration**,” or “**Abitan Decl.**”) filed contemporaneously herewith and incorporated herein by reference.

In further support of the relief requested herein, the Foreign Representative respectfully represents as follows:

JURISDICTION

1. The Court has jurisdiction to consider this Noticing Procedures Motion pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P). Venue for this proceeding is proper before this Court pursuant to 28 U.S.C. § 1410.

3. The Foreign Representative, in its capacity as authorized foreign representative, has properly commenced these chapter 15 cases pursuant to sections 1504, 1509, and 1515 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “**Bankruptcy Code**”).

4. The statutory predicates for the relief requested herein are sections 105, 1507, 1521, and 1522 of the Bankruptcy Code, Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and rules 2002-1 and 9006-1 of the Local Rules for the Bankruptcy Court for the District of Delaware (the “**Local Rules**”).

BACKGROUND

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. A more detailed description of the Debtors and their businesses can be found in the Foreign Representative’s Motion for Recognition of Foreign Main Proceeding and Request for Certain Related Relief [Docket No. 7] (the “**Initial Recognition Motion**”).

I. The Canadian Proceeding

6. On September 29, 2022, pursuant to an application made by the Debtors in the Canadian Proceeding, the Canadian Court entered: (a) the First Day Initial Order (the “**Initial CCAA Order**”); and (b) the Bidding Procedures Order (the “**CCAA Bidding Procedures Order**”). (Abitan Decl. ¶ 7.) A copy of the Initial CCAA Order was attached as Exhibit D to the Initial Recognition Motion. A copy of the CCAA Bidding Procedures Order is attached hereto as **Exhibit B**.

7. 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**”);² (b) appointed Deloitte Restructuring Inc. (the “**Monitor**”) as monitor in the Canadian Proceeding; (c) declared that Québec is the “centre of main interest” of the Debtors, and, accordingly, 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. (Abitan Decl. ¶ 8; *see also* Initial CCAA Order at ¶¶ 16-20, 40-48, 65, 67.)

8. Pursuant to the CCAA Bidding Procedures Order, the Canadian Court, among other things: (a) approved the Debtors’ proposed Sale and Investment Solicitation Process (the “**Bidding Procedures**”);³ and (b) approved the engagement of National Bank Financial Inc. (the “**Financial Advisor**”) to serve as the Debtors’ financial advisor in the context of the sale process. (Abitan Decl. ¶ 10; *see also* CCAA Bidding Procedures Order at ¶¶ 10-17.)

II. The Chapter 15 Cases

9. On September 30, 2022 (the “**Petition Date**”), the Foreign Representative commenced these chapter 15 cases by filing, among other things, verified chapter 15 petitions seeking recognition by this Court of the Canadian Proceeding as a foreign main proceeding under chapter 15 of the Bankruptcy Code.

10. On the Petition Date, this Court entered that certain *Order (A) Directing Joint Administration of Cases Under Chapter 15 of the Bankruptcy Code and (B) Authorizing the Filing of a Consolidated List Under Bankruptcy Rule 1007* [Docket No. 8].

² On November 28, 2022, the Canadian Court entered an order extending the Canadian Stay until February 3, 2023. (Abitan Decl. ¶ 9.)

³ The Bidding Procedures are attached as Schedule A to the CCAA Bidding Procedures Order.

11. On October 27, 2022, this Court entered that certain *Order Granting Recognition of Foreign Main Proceeding and Certain Related Relief* [Docket No. 36] (the “**First Recognition Order**”). Pursuant to the First Recognition Order, this Court recognized the Canadian Proceeding as a “foreign main proceeding” pursuant to chapter 15 of the Bankruptcy Code, recognized the Foreign Representative as the “foreign representative” in respect of the Canadian Proceeding, and recognized and granted comity to, and gave full force and effect in the United States to the Canadian Proceeding and the orders entered in the Canadian Proceeding, including enforcing the automatic stay in the United States.

12. On November 22, 2022, the Court entered that certain *Order Granting Final Relief Recognizing and Enforcing DIP Financing Authorized under Amended and Restated CCAA Order* [Docket No. 48] (the “**DIP Recognition Order**”). Pursuant to the DIP Recognition Order, this Court, among other things, recognized and enforced the terms, conditions, and provisions of the Amended and Restated CCAA Order (as defined therein), which, authorized the Debtors to obtain debtor in possession financing.

III. Status of the Sale Process⁴

13. The Debtors, with the assistance of the Monitor and the Financial Advisor, and under the oversight of the Canadian Court, are currently conducting a sale process in accordance with the Bidding Procedures. (Abitan Decl. ¶ 13.) Similar to a traditional sale process in a case under section 363 of the Bankruptcy Code, the Bidding Procedures are intended to establish a clear and open process for the solicitation, receipt, and evaluation of bids on a timeline that will provide parties with sufficient time and information to submit competitive bids. (*See id.* ¶ 11.)

⁴ Capitalized, but undefined, terms used in this section shall have the meanings set forth in the Bidding Procedures.

14. The Debtors received Phase 1 bids from 32 parties, of which 18 were deemed Phase 1 Satisfactory Bids and allowed to participate in Phase 2. (Abitan Decl. ¶ 14.) During Phase 2, the Debtors and the Financial Advisor are actively engaging with the remaining bidders in order to advance the process, notably with respect to additional due diligence, management presentations, and site visits. Phase 2 Bids are due on January 6, 2023.⁵ (*Id.* ¶ 15.) The Debtors may consider bids for substantially all of their assets as a going concern, or a series of piecemeal sales of the Debtors' assets. *Id.*

15. Pursuant to the Bidding Procedures, an auction (the “**Auction**”), if necessary, is currently set for the week of January 9, 2023, and the Successful Bid(s) must be selected by no later than January 13, 2023, at 5:00 p.m. (prevailing Eastern time). The parties will then have until January 27, 2023, to complete definitive sale documentation. (Abitan Decl. ¶ 17.)

16. During the week of January 30, 2023, the Debtors anticipate seeking an order (each, a “**CCAA Sale Order**”) approving the Successful Bid(s) and consummation of the transactions contemplated therein in the Canadian Proceeding, whereby parties wishing to oppose the entry of an order approving the sale(s) of the Debtors' assets will have the opportunity to object and be heard in the Canadian Court. (Abitan Decl. ¶ 18.)

17. The Bidding Procedures set February 7, 2023, as the Outside Date by which a transaction must close, as the Debtors anticipate having an need to close a sale on an expedited timeframe following entry of a CCAA Sale Order. (Abitan Decl. ¶ 20.) Therefore, the Foreign Representative will be required to seek approval of a sale and recognition and enforcement of the CCAA Sale Order on an expedited basis.

⁵ The Phase 2 Bid Deadline, and all other deadlines set forth in the Bidding Procedures, are subject to change with the consent of the Monitor and the DIP Lenders. (Abitan Decl. ¶ 16.)

III. The Proposed U.S. Sale Hearing Noticing Procedures

18. Should the Canadian Court enter a CCAA Sale Order, the Foreign Representative intends on promptly filing a motion with this Court (a “**U.S. Sale Motion**”) seeking, among other things: (a) approval of the sale(s) pursuant to section 363 of the Bankruptcy Code, to the extent such sale(s) contemplates the sale of assets located in the United States (collectively, the Debtors’ “**U.S. Assets**”); and (b) recognition and enforcement of such CCAA Sale Order.

19. Notably, the Debtors anticipate that the definitive purchase agreement for the sale of the Debtors’ assets will require, as a closing condition, the entry of an order from this Court approving the sale under the Bankruptcy Code and recognizing and enforcing the CCAA Sale Order. (Abitan Decl. ¶ 19.)

20. The CCAA does not require notice to all creditors of sales of a debtors’ assets during a CCAA process. (Abitan Decl. ¶ 12.) However, the Debtors and the Monitor have provided notice of the Bidding Procedures and sale of the Debtors’ assets to all parties who ordinarily receive notice of such events in a CCAA proceeding, including the Debtors’ senior secured lenders and those parties who formally request inclusion on the Monitor’s service list. *Id.* Nevertheless, out of the abundance of caution and in order to facilitate the sale process, the Foreign Representative requests approval of the Noticing Procedures (defined below), which are intended to provide notice and an opportunity to object to all of the Debtors’ United States creditors.

21. The Foreign Representative submits that, given that: (a) it may need to wait to file a U.S. Sale Motion until entry of a CCAA Sale Order, and (b) the Bidding Procedures provides that sale(s) must close on or before February 7, 2023, there are several practical and cost challenges and considerations associated with serving all United States creditors, as would

ordinarily be required for a motion seeking relief under section 363 of the Bankruptcy Code in a chapter 15 case. Accordingly, the Foreign Representative requests that this Court approve the following noticing and objection procedures (collectively, the “**Noticing Procedures**”):

This Noticing Procedures Motion

- (a) **U.S. Mail Service**: The Foreign Representative will cause a copy of this Noticing Procedures Motion and a notice substantially in the form attached hereto as **Exhibit C** (the “**U.S. Mail Notice**”), which includes the procedures for obtaining notice of a U.S. Sale Motion,⁶ to be served via U.S. mail, on the following parties:
 - i. any party that that has been served with filings in the Canadian Proceeding at a United States mailing address;
 - ii. any party that has received notice by mail from the Foreign Representative of any previous filing in these chapter 15 cases;
 - iii. all parties to litigation in which any Debtor is a party and that is pending in the United States as of the Petition Date;
 - iv. the Office of the United States Trustee for the District of Delaware;
 - v. the United States Attorney’s Office for the District of Delaware;
 - vi. National Bank of Canada;
 - vii. Export Development Canada; and
 - viii. the Monitor.
- (b) **CM/ECF Notice**: The Foreign Representative will file the U.S. Mail Notice on the docket in these chapter 15 cases, which will cause service of such notice to parties who receive notice automatically via the Court’s CM/ECF system in these chapter 15 cases.
- (c) **Monitor’s Website**: The Foreign Representative will cause the Noticing Procedures Motion to be posted on the Monitor’s case-specific website: <https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx>.
- (d) **Objection Deadline**: January 5, 2023, at 4:00 p.m. (prevailing Eastern time).
- (e) **Reply Deadline**: January 9, 2023, at 4:00 p.m. (prevailing Eastern time).
- (f) **Hearing**: January 12, 2023, at 9:30 a.m. (prevailing Eastern time).

⁶ The U.S. Mail Notice includes an option for recipients to request a copy of any U.S. Sale Motion via overnight mail.

The U.S. Sale Motion

- (a) **Overnight Mail Service:** The Foreign Representative will cause a copy of a U.S. Sale Motion, together with a notice of hearing and the deadline to object to a U.S. Sale Motion, to be served via overnight mail, substantially in the form attached hereto as **Exhibit D** (the “**Overnight Mail Notice**”), on the following parties:
- i. any party that requests of the U.S. Sale Motion via overnight mail in accordance with the U.S. Mail Notice;
 - ii. all parties to litigation in which any Debtor is a party and that is pending in the United States as of the Petition Date;
 - iii. the Office of the United States Trustee for the District of Delaware;
 - iv. the United States Attorney’s Office for the District of Delaware;
 - v. National Bank of Canada;
 - vi. Export Development Canada; and
 - vii. the Monitor.
- (b) **CM/ECF Notice:** The Foreign Representative will file the Overnight Mail Notice on the docket in these chapter 15 cases, which will cause service of such notice to parties who receive notice automatically via the Court’s CM/ECF system in these chapter 15 cases.
- (c) **Monitor’s Website:** The Foreign Representative will cause the U.S. Sale Motion to be posted on the Monitor’s case-specific website: <https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx>.
- (d) **Objection Deadline:** No later than 5:00 p.m. (prevailing Eastern time) on the date that is two business days prior to the scheduled hearing.
- (e) **Reply Deadline:** No later than 5:00 p.m. (prevailing Eastern time) on the date that is one business day prior to the scheduled hearing.
- (f) **Hearing:** February 3, 2023, at 1:30 (prevailing Eastern time).

RELIEF REQUESTED

22. By this Noticing Procedures Motion, the Foreign Representative requests that the Court enter an order approving the proposed Noticing Procedures, setting a hearing date on a U.S. Sale Motion, and granting related relief requested herein.

BASIS FOR THE REQUESTED RELIEF

23. Congress designed chapter 15 to protect assets and other interests in the United States for parties that have commenced restructuring proceedings in a foreign jurisdiction. Relief under chapter 15 prevents dismemberment of United States and non-United States businesses through actions commenced in the United States and avoids disruptions that otherwise could derail a party's foreign restructuring.

24. Consistent with these principles, the Foreign Representative requests approval of the Noticing Procedures (as defined below) with the intent of obtaining relief under section 363 of the Bankruptcy Code, in addition to full recognition and enforcement of a CCAA Sale Order in the United States, which will ensure the success of the restructuring contemplated in the Canadian Proceeding in both Canada and the United States.

25. Sections 1507 and 1521 of the Bankruptcy Code provide a statutory basis for a court overseeing a chapter 15 proceeding to provide relief to a foreign representative following the recognition of a foreign proceeding. Granting the relief requested herein is consistent with, and permissible under, sections 1507, 1521, and 105(a) of the Bankruptcy Code, Bankruptcy Rule 9006(d), and Local Rule 9006-1(e). Accordingly, the Court should exercise its discretion and power to, consistent with principles of comity, approve the Noticing Procedures.

I. The Relief Requested Herein is Appropriate and Warranted Pursuant to Section 1521 of the Bankruptcy Code

26. Upon recognition of a foreign proceeding and at the request of the foreign representative, the court may grant "any appropriate relief" to "effectuate the purpose of [chapter 15] and to protect the assets of the debtor or the interests of the creditors." 11 U.S.C. § 1521(a). Relief under this section may only be granted if the interests of "the creditors and the other interested entities, including the debtor, are sufficiently protected." 11 U.S.C. § 1522(a).

27. The paramount goal in any proposed sale of property of the estate is to maximize the proceeds received by the estate. *See In re Edwards*, 228 B.R. 552, 561 (Bankr. E.D. Pa. 1998) (“The purpose of procedural bidding orders is to facilitate an open and fair public sale designed to maximize value for the estate”); *In re Integrated Res., Inc.*, 147 B.R. 650, 659 (S.D.N.Y. 1992) (quoting *In re Atlanta Packaging Prods., Inc.*, 99 B.R. 124, 130 (Bankr. N.D. Ga.1988)) (“[I]t is a well-established principle of bankruptcy law that the objective of the bankruptcy rules and the trustee’s duty with respect to such sales is to obtain the highest price or greatest overall benefit possible for the estate”).

28. To that end, courts uniformly recognize that procedures intended to enhance competitive bidding are consistent with the goal of maximizing the value received by the estate and, therefore, are appropriate in the context of bankruptcy transactions. *See, e.g., In re Dura Auto. Sys., Inc.*, No. 06-11202 KJC, 2007 WL 7728109, at *90 (Bankr. D. Del. Aug. 15, 2007); *Integrated Res., Inc.*, 147 B.R. at 659 (bidding procedures “are important tools to encourage bidding and to maximize the value of the debtor’s assets”).

29. In this case, approving the Noticing Procedures constitutes “appropriate relief” pursuant to section 1521 of the Bankruptcy Code, as the Noticing Procedures are intended to provide sufficient notice of a sale of U.S. Assets. The Foreign Representative submits that a sale of U.S. Assets through the competitive Bidding Procedures is the best way to preserve and maximize value for the benefit all parties in interest. As such, consistent with the principles of comity and fair treatment of all interested parties, the Court should grant approve the Noticing Procedures, which will facilitate the successful completion of the Debtors’ reorganization.

30. Additionally, approving the Noticing Procedures pursuant to section 1521(a) of the Bankruptcy Code sufficiently protects the interests of all stakeholders, and therefore satisfies

the requirement under section 1522(a) of the Bankruptcy Code that the interests of the creditors, the debtor and other interested parties be “sufficiently protected.” 11 U.S.C. § 1522(a). Although the Bankruptcy Code does not define “sufficiently protected,” it “requires a balancing of the interests of the [d]ebtors, creditors, and other interested parties.” *In re Petroforte Brasileiro de Petroleo Ltda.*, 542 B.R. 899, 909 (Bankr. S.D. Fla. 2015); *see also In re Hanjin Shipping Co., Ltd.*, No. 16-27041 (JKS), 2016 WL 6679487, at *5 (Bankr. D.N.J. Sept. 20, 2016) (quoting *Jaffe v. Samsung Elecs. Co. Ltd.*, 737 F.3d 14, 27–28 (4th Cir. 2013)) (noting that some courts have fashioned remedies on a case-by-case basis by analyzing the requirements of § 1522(a), which is “logically best done by balancing the respective interests based on the relative harms and benefits in light of the circumstances presented ...”).

31. The relief granted hereunder will facilitate the Debtors obtaining the highest and best offer for the sale of their assets, while sufficiently protecting the interests of all United States stakeholders. In short, the relief requested herein will “assist in the efficient administration of [the] cross-border insolvency proceeding . . . [while] not harm[ing] the interest of the debtors or their creditors.” *In re Grant Forest Prods., Inc.* 440 B.R. 616, 621 (Bankr. D. Del. 2010). Accordingly, approving the Noticing Procedures is consistent with the well-established principles underlying the Bankruptcy Code and is appropriate under the circumstances.

II. The Relief Requested Herein is Appropriate and Warranted Pursuant to Section 1507 of the Bankruptcy Code.

32. The Foreign Representative respectfully submits that the relief requested herein is also warranted as “additional assistance” under section 1507 of the Bankruptcy Code. 11 U.S.C. § 1507. In determining whether to exercise its discretion to grant such additional relief, a bankruptcy court’s analysis should be guided by the principle of comity that “will reasonably assure,” in relevant part the:

- (1) just treatment of all holders of claims against or interests in the debtor's property;
- (2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding; [and]
- (3) prevention of preferential or fraudulent dispositions of property of the debtor

11 U.S.C. § 1507(b).

33. For the reasons set forth above, approval of the Noticing Procedures complies with the principles of comity and satisfies all applicable factors set forth in section 1507 of the Bankruptcy Code. First, the Noticing Procedures are intended to supplement the Bidding Procedures, with the goal of providing clarity to potential bidders that the Debtors' U.S. creditors will receive sufficient notice of the sale, therefore maximizing the value received by the Debtors for their assets. Second, the proposed Noticing Procedures will not prejudice or inconvenience the Debtors' United States creditors in the processing of claims. More specifically, notwithstanding entry of a U.S. Sale Order, the Debtors' creditors will have the opportunity to participate in any claim process conducted in the Canadian Proceeding (Abitan Decl. ¶ 21), and approval of the Noticing Procedures will facilitate a timely closing, thereby maximizing value for all constituents. Third, the CCAA prohibits preferential and/or fraudulent transfers of the property of the Debtors. (*Id.* ¶ 22.) Therefore, approving the Noticing Procedures, which will facilitate the sale of the Debtors' assets under the CCAA, will prevent the preferential or fraudulent dispositions of the Debtors' assets.

34. Accordingly, all applicable factors in the section 1507(b) analysis have been satisfied and approval of the Noticing Procedures is appropriate.

III. Shortened Notice is Authorized Pursuant to the Bankruptcy Rules and the Local Rules

35. Bankruptcy Rule 9006(d) generally requires “[a] written motion, other than one which may be heard ex parte, and notice of any hearing shall be served not later than seven days before the time specified for such hearing, *unless a different period is fixed by these rules or by order of the court.*” Fed. R. Bankr. 9006(d) (emphasis added). Further, pursuant to Local Rule 9006-1(e), such periods may be shortened by order of the Court upon written motion specifying the exigencies supporting shortened notice.

36. As set forth herein, sufficient cause exists for this Court to exercise its discretion and shorten the notice period for a hearing date for a U.S. Sale Motion. More specifically, the Foreign Representative submits that approval of a U.S. Sale Motion will facilitate the Debtors’ efforts to close a sale within the timeline required by the Bidding Procedures and the Debtors’ business exigencies. Given the compressed timeframe, the Noticing Procedures will provide sufficient notice to of the sale process, while preserving parties’ rights to be heard at a hearing on this Noticing Procedures Motion and the U.S. Sale Motion.

IV. The Relief Requested Herein is Appropriate and Warranted Pursuant to Section 105(a) of the Bankruptcy Code.

37. Although the Court should exercise its jurisdiction under sections 1507 and 1521 of the Bankruptcy Code to approving the Noticing Procedures, the Court may also grant the relief requested herein pursuant to section 105(a) of the Bankruptcy Code.

38. Pursuant to section 105(a) of the Bankruptcy Code, this Court has broad authority and is empowered to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions [of the Bankruptcy Code].” 11 U.S.C. § 105(a). Although the equitable authority bestowed onto bankruptcy courts under section 105(a) is not unfettered, it provides the court with the flexibility required to ensure that it is able to serve the purposes of the Bankruptcy

Code within the constructs of its specific provisions. As it is necessary and appropriate to carry out the provisions of chapter 15, the Court is authorized to grant the requested relief under section 105(a).

NOTICE

39. Notice of this Noticing Procedures Motion will be provided to the following parties or their counsel via U.S. Mail: (a) any party that that has been served with filings in the Canadian Proceeding at a United States mailing address; (b) any party who has received notice by mail from the Foreign Representative of any previous filing in these chapter 15 cases; (c) all parties to litigation in which any Debtor is a party and that is pending in the United States as of the date that these chapter 15 cases were filed; (d) the Office of the United States Trustee for the District of Delaware; (e) the United States Attorney's Office for the District of Delaware; (f) National Bank of Canada; (g) Export Development Canada; and (h) the Monitor. Notice of this Noticing Procedures Motion will also be provided, via email, to all parties who receive notices in these chapter 15 cases automatically via the Court's CM/ECF system.

CONCLUSION

WHEREFORE, the Foreign Representative respectfully requests that this Court enter the proposed order substantially in the form attached hereto as **Exhibit A**: (a) approving the Noticing Procedures; (b) setting a hearing on a U.S. Sale Motion; and (c) granting such other and further relief as the Court deems just and proper.

[Remainder of Page Intentionally Left Blank]

Dated: December 21, 2022
Wilmington, Delaware

BIELLI & KLAUDER, LLC

/s/ David M. Klauder

David M. Klauder, Esquire (No. 5769)
1204 N. King Street
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- and -

MCDONALD HOPKINS LLC

David A. Agay (pro hac vice admission pending)
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ajericho@mcdonaldhopkins.com

Counsel for the Foreign Representative

Exhibit A

Proposed Order

**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 (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**

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), 1507, 1521, and 1522 of the Bankruptcy Code, Bankruptcy Rules 2002 and 6004, and Local Rules 2002-1 and 9006-1, (a) approving noticing procedures for a motion to approve the sale of the Debtors’ assets under to section 363 of the Bankruptcy Code and for recognition and enforcement of a Canadian Court order approving such sale; (b) setting a sale hearing; and (c) granting related relief, as more fully described in the Motion; the Court having reviewed and considered the Motion; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor;

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.

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

IT IS FOUND AND DETERMINED THAT:

A. The findings and conclusions set forth herein constitute the 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. The Court has jurisdiction to consider the Motion, the relief requested therein, in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. This matter is a core proceeding under 28 U.S.C. § 157(b). Venue of the chapter 11 cases and the Motion in this district is proper under 28 U.S.C. §§ 1410.

C. The Canadian Proceedings constitute “foreign main proceedings” as defined in section 1502(4) of the Bankruptcy Code.

D. The Foreign Representative is the duly appointed “foreign representative” of the Debtors within the meaning of section 101(24) of the Bankruptcy Code.

E. The Foreign Representative caused notice of the Motion in the form attached to the Motion as Exhibit C (the “**U.S. Mail Notice**”) to be served, via U.S. Mail, on: (i) all parties that has been served with filings in the Canadian Proceeding at a United States mailing address; (ii) all parties that have received notice by mail from the Foreign Representative of any previous filing in these chapter 15 cases; (iii) all parties to litigation in which any Debtor is a party and that is pending in the United States as of the Petition Date; (iv) the Office of the United States Trustee for the District of Delaware; (v) the United States Attorney’s Office for the District of Delaware;

(vi) National Bank of Canada; (vii) Export Development Canada; (viii) the Monitor. (Affidavit of Service [Docket No. ____])

F. The Foreign Representative also caused the U.S. Mail Notice to be served, via email, to all parties who receive notices in these chapter 15 cases automatically via the Court's CM/ECF system. (Affidavit of Service [Docket No. ____])

G. On September 29, 2022, the Canadian Court entered the Bidding Procedures Order the "**CCAA Bidding Procedures Order**") in the Canadian Proceeding, thereby approving, among other things, the Bidding Procedures.

H. The Debtors, with the assistance of the Monitor and the Financial Advisor, and under the oversight of the Canadian Court, are currently conducting a sale process in accordance with the Bidding Procedures.

I. In accordance with the Bidding Procedures, an auction (the "**Auction**"), if necessary, was scheduled to be held during the week of January 9, 2023, and the Successful Bid(s) must be selected by no later than January 13, 2023, at 5:00 p.m. (prevailing Eastern time). The parties will then have until January 27, 2023, to complete definitive sale documentation.

J. Following the selection of a Successful Bid(s), during the week of January 30, 2023, the Debtors anticipate seeking an order from the Canadian Court approving the Successful Bid(s) and authorizing the Debtors to consummate the transactions therein, whereby parties wishing to oppose the entry of an order approving the sale(s) of the Debtors' Assets (each, a "**CCAA Sale Order**") will have the opportunity to object and be heard.

K. The Bidding Procedures set February 7, 2023, as the "Outside Date" by which a transaction must close.

L. Should the Canadian Court enter a CCAA Sale Order, the Foreign Representative intends on promptly filing a motion with this Court (a “**U.S. Sale Motion**”) seeking, among other things: (a) approval of the sale(s) pursuant to section 363 of the Bankruptcy Code, to the extent such sale(s) contemplates the sale of assets located in the United States; and (b) recognition and enforcement of such CCAA Sale Order.

M. The Debtors will have a need to close a sale on an expedited timeframe following entry of a CCAA Sale Order.

N. The Foreign Representative has demonstrated that the Noticing Procedures provide sufficient and reasonable notice to parties in interest of the Motion and a U.S. Sale Motion.

O. The Foreign Representative is entitled to the discretionary relief expressly set forth in section 1521(a) of the Bankruptcy Code.

P. The Foreign Representative is entitled to the additional assistance as warranted under section 1507 of the Bankruptcy Code.

Q. 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, their creditors and interest holders, and all other parties in interest.

FOR ALL OF THE FOREGOING REASONS AND AFTER DUE DELIBERATION AND SUFFICIENT CAUSE APPEARING THEREFORE, IT IS HEREBY

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that:

1. The Motion is GRANTED as set forth herein.
2. The Noticing Procedures are approved.
3. Service of the Motion was (i) appropriate and reasonably calculated to provide timely and proper notice and an opportunity to object to the Motion, (ii) in compliance with all applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and

(iii) adequate and sufficient under the circumstances of the Debtors' chapter 15 cases, such that no other or further notice of the Motion is required.

4. Cause exists to shorten the notice period for a hearing on the U.S. Sale Motion.

5. Promptly upon filing a U.S. Sale Motion, the Foreign Representative shall cause the Overnight Mail Notice (including the U.S. Sale Motion and any exhibits attached thereto), substantially in the form attached hereto as **Exhibit 1**, to be served, via overnight mail, on the following parties: (i) any party who requested to receive notice of the U.S. Sale Motion via overnight mail in accordance with the U.S. Mail Notice; (ii) all parties to litigation in which any Debtor is a party and that is pending in the United States as of the Petition Date; (iii) the Office of the United States Trustee for the District of Delaware; (iv) the United States Attorney's Office for the District of Delaware; (v) National Bank of Canada; (vi) Export Development Canada; and (vii) the Monitor.

6. The Foreign Representative shall cause the Overnight Mail Notice to be filed on the docket in these chapter 15 cases, which will cause service of such notice to parties who receive notice automatically via the Court's CM/ECF system in these chapter 15 cases.

7. The Foreign Representative shall cause the Overnight Mail Notice to be posted on the Monitor's case-specific website: <https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx>.

8. The Noticing Procedures are necessary and appropriate to facilitate the Debtors' efforts to close a sale within the timeline required by the Bidding Procedures and the Debtors' business.

9. The Noticing Procedures are: (i) appropriate and reasonably calculated to provide all interested parties with timely and proper notice the Motion and the U.S. Sale Motion; (ii) in

compliance with all applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, except as waived or modified by this Order, and (iii) adequate and sufficient under the circumstances of the Debtors' chapter 15 cases.

10. Objections, if any, to the U.S. Sale Motion must: (a) be in writing; (b) state the name and address of the objecting party and the nature of the claim or interest of such party; (c) state with particularity the basis and nature of any objection; and (d) be filed, together with a proof of service, with the Bankruptcy Court and served so that they are received no later than 5:00 p.m. (prevailing Eastern time) on a date that is specified in the notice that is no less than two (2) business days prior to the hearing on the U.S. Sale Motion by: (a) counsel for the Foreign Representative, McDonald Hopkins LLC, Attn: Josh Gadharf, Esq., 300 North LaSalle Street, Suite 1400, Chicago, Illinois 60654 and Bielli & Klauder, LLC, Attn: David M. Klauder, Esq., 1204 N. King Street, Wilmington, Delaware 19801; and (b) the United States Trustee, Attn: Timothy Jay Fox, Jr., J. Caleb Boggs Federal Building, 844 King Street, Suite 2207, Lockbox #35, Wilmington, Delaware 19801.

11. Replies in support of the U.S. Sale Motion and in response to any objection to the U.S. Sale Motion shall be filed no later than 5:00 p.m. (prevailing Eastern time) on the date that is one business day prior to the hearing on the U.S. Sale Motion.

12. The hearing on the U.S. Sale Motion is scheduled for February 3, 2023 at 1:30 p.m. (prevailing Eastern time), and may be continued from time to time without further notice other than the filing of a notice on the docket or the announcement of the adjourned date(s) at the hearing or any continued hearing.

13. The Foreign Representative is authorized to take all steps necessary or appropriate to carry out this order.

14. The Bankruptcy Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this order.

15. Notwithstanding any applicability of any Bankruptcy Rules, the terms and conditions of this order shall be immediately effective and enforceable upon its entry.

EXHIBIT 1

Overnight Mail Notice

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:

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

Debtors in a foreign proceeding.³

Chapter 15

Case No. 22- 10934 (KBO)

Joint Administration Requested

NOTICE OF MOTION FOR ORDER (I) APPROVING THE SALE OF DEBTORS' U.S. ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS; (II) AUTHORIZING ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (III) RECOGNIZING AND ENFORCING THE CANADIAN CCAA SALE ORDER

PLEASE TAKE NOTICE that on [●], 2023, Xebec Adsorption Inc., in its capacity as the authorized foreign representative (the "Foreign Representative") for the above-captioned debtors (collectively, the "Debtors") filed the *Motion for Order (I) Approving the Sale of Debtors' U.S. Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests; (II) Authorizing Assumption and Assignment of Executory Contracts and Unexpired Leases, and (III) Recognizing and Enforcing the Canadian CCAA Sale Order* (the "U.S. Sale Motion"), seeking entry of an order (a) approving the sale of the Debtors' assets located in the United States, free and clear of liens, claims, encumbrances, and interests under section 363 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"); (b) authorizing the assumption and assignment of executory contracts and unexpired leases; and (c) recognizing and enforcing an order approving a sale of the Debtors' assets, entered by the Superior Court of Québec, in the Province of Québec, District of Montréal, in a proceeding commenced under Canada's Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended. A true and correct copy of the U.S. Sale Motion is attached to this Notice as **Exhibit A**.

PLEASE TAKE FURTHER NOTICE that copies of the U.S. Sale Motion and related filings in these chapter 15 cases are also available (a) on the Monitor's case-specific website: <https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx>; (b) on the Bankruptcy Court's Electronic Case Filing System, which can be accessed from the Bankruptcy Court's website at <http://www.ecf.deb.uscourts.gov> (a PACER login and password are required) or (c) upon request

³ 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.

to counsel to the Foreign Representative, via email (jgadhaf@mcdonaldhopkins.com), McDonald Hopkins LLC, 300 North LaSalle Street, Suite 1400, Chicago, Illinois 60654, Attn: Josh Gadharf.

PLEASE TAKE FURTHER NOTICE that the Bankruptcy Court has scheduled a hearing for **February 3, 2023 at 1:30 p.m. (prevailing Eastern time)** before the Honorable Karen B. Owens (the “U.S. Sale Hearing”) to consider the relief requested in the U.S. Sale Motion.

PLEASE TAKE FURTHER NOTICE that any party in interest wishing to submit a response, answer, or objection to the U.S. Sale Motion must do so pursuant to the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, and such response, answer, or objection must (a) be in writing, (b) set forth in detail the factual and legal bases therefor, (c) be filed with the Office of the Clerk of the Court, 824 Market Street, Wilmington, Delaware 19801, and (d) be served upon counsel for the Foreign Representative, McDonald Hopkins LLC, 300 North LaSalle Street, Suite 1400, Chicago, Illinois 60654, Attn: Josh Gadharf, jgadhaf@mcdonaldhopkins.com, and Bielli & Klauder, LLC, 1204 North King Street, Wilmington, Delaware 19801, Attn: David M. Klauder, dklauder@bk-legal.com, so as to be received **on or before February 1, 2023 at 5:00 p.m. (prevailing Eastern time)**.

PLEASE TAKE FURTHER NOTICE that all parties in interest opposed to the U.S. Sale Motion must appear at the U.S. Sale Hearing at the time and place set forth herein, which may be adjourned from time to time without further notice except for an “in court” announcement at the U.S. Sale Hearing or a filing on the docket of these chapter 15 cases of the date and time to which the U.S. Sale Hearing has been adjourned.

PLEASE TAKE FURTHER NOTICE THAT IF NO RESPONSES OR OBJECTIONS ARE RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED BY THE FOREIGN REPRESENTATIVE WITHOUT FURTHER NOTICE OR HEARING.

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Dated: [●], 2023
Wilmington, Delaware

BIELLI & KLAUDER, LLC

/s/ David M. Klauder

David M. Klauder, Esquire (No. 5769)

1204 N. King Street

Wilmington, Delaware 19801

Phone: (302) 803-4600

Facsimile: (302) 397-2557

Email: dklauder@bk-legal.com

- and -

MCDONALD HOPKINS LLC

David A. Agay (*pro hac vice* admission pending)

Joshua A. Gadharf (*pro hac vice* admission pending)

Ashley J. Jericho (*pro hac vice* admission pending)

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Email: dagay@mcdonaldhopkins.com

jgadharf@mcdonaldhopkins.com

ajericho@mcdonaldhopkins.com

Counsel for the Foreign Representative

Exhibit A

U.S. Sale Motion

Exhibit B

CCAA Bidding Procedures Order

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-061483-224

DATE: September 29, 2022

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

IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF:

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

and

DELOITTE RESTRUCTURING INC.
Monitor

BIDDING PROCEDURES ORDER

J.N.S.

500-11-061483-224

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- [1] **CONSIDERING** the *Application for the Issuance of a First Day Initial Order, a Deemed Extension of the Stay Period and a Bidding Procedures Order* (the "**Application**"), and the exhibits and the affidavit of Mr. Dimitrios Vounassis, filed in support thereof;
- [2] **CONSIDERING** the Pre-Filing Report of the Monitor dated September 29, 2022;
- [3] **CONSIDERING** the submissions of counsel and the testimony of the witnesses heard;
- [4] **GIVEN** the initial order rendered on September 29, 2022 (as amended from time to time, the "**Initial Order**");
- [5] **GIVEN** the provisions of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended;

THE COURT HEREBY:

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

Definitions

- [7] **DECLARES** that all capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Bidding Procedures (as defined below).

Service

- [8] **ORDERS** that any prior delay for presentation of the Application is hereby abridged and validated so that the Application is properly returnable today and hereby dispenses with further service thereof.
- [9] **PERMITS** the service of the present Order (this "**Order**") at any time and place and by any means whatsoever, including by email.

SISP Approval

- [10] **APPROVES** and **RATIFIES** the Sale and Investment Solicitation Process (the "**SISP**") set forth in the Procedures for the Sale and Investment Solicitation Process attached as Schedule A hereto (the "**Bidding Procedures**").
- [11] **AUTHORIZES** and **DIRECTS** the Monitor, the Petitioners and NBF (as defined herein) to implement the SISP and to take such steps and execute such

J.N.S.

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documentation as may be necessary or incidental thereto, the whole in accordance with the Bidding Procedures.

- [12] **ORDERS** that the Monitor, the Petitioners and NBF are authorized and permitted under applicable law to disclose and transfer to Potential Bidders and to their advisors personal information in the custody or control of the Petitioners relating to the operation of the business being sold pursuant to the SISP, including human resources and payroll information, records pertaining to the Petitioners' past and current employees, and information about any consumer, website visitor or other individual (collectively, "**Personal Information**"), but only to the extent necessary to negotiate, determine whether to proceed with, and attempt to complete a transaction in accordance with the SISP (a "**Transaction**"). Each Potential Bidder to whom any Personal Information is disclosed shall maintain and protect the Personal Information with security safeguards appropriate to the sensitivity of the Personal Information and as may otherwise be required by applicable federal or provincial privacy legislation and limit the use of such information to its evaluation of a Transaction, and if it does not complete a Transaction with the Petitioners, shall return all such information to the Petitioners, or in the alternative permanently destroy all such information.
- [13] **ORDERS** that the Monitor, the Petitioners and NBF, and each of their respective affiliates, partners, directors, employees, agents, controlling persons, lenders, legal counsel and advisors shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of the conduct of the SISP or the performance of their duties under the SISP, except to the extent of such losses, claims, damages or liabilities resulting from gross negligence or willful misconduct of any such person or entity, as applicable, as determined by this Court.

NBF Engagement Approval and Transaction Charge

- [14] **APPROVES** and **RATIFIES** the engagement letter (the "**Engagement Letter**") entered into between National Bank Financial Inc. ("**NBF**") and Xebec Adsorption Inc. dated September 27, 2022 (Exhibit P-3 filed in support of the Application).
- [15] **AUTHORIZES** the Petitioners to perform any obligations under the Engagement Letter and to take any action that could be necessary or useful to give full effect to the terms of the Engagement Letter.
- [16] **AUTHORIZES** NBF to act as Financial Advisor in the context of the SISP in accordance with the SISP Procedures.
- [17] **DECLARES** that all of the Property (as such term is defined in the Initial Order) of the Petitioners is hereby subject to a charge, hypothec and security for an

J. N. C.

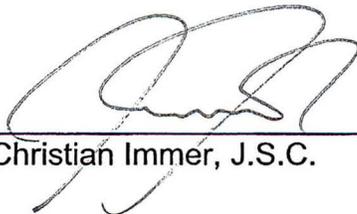
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aggregate amount of \$975,000 (the "**Transaction Charge**") in favour of NBF as security for the payment of the Transaction Fee (as defined in the Engagement Letter). The Transaction Charge shall rank in accordance with the priorities set out in the Initial Order.

General

- [18] **ORDERS** that the Petitioners and the Monitor may from time to time apply to this Court for advice and directions in respect of the SISF and the discharge of their respective powers and duties hereunder or under the SISF.
- [19] **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 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 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, and to act in aid of and to be complementary to this Court, in carrying out the terms of this Order.
- [20] **DECLARES** that Xebec Adsorption Inc., as foreign representative of the Petitioners, shall be authorized to apply, before the United States Bankruptcy Court for the District of Delaware, for an order recognizing this Order and any further relief that may be required in respect of the Petitioners under Chapter 15 of the United States Bankruptcy Code.
- [21] **ORDERS** the provisional execution of this Order notwithstanding appeal and without security.
- [22] **THE WHOLE WITHOUT COSTS.**



Christian Immer, J.S.C.

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

COPIE CERTIFIÉE CONFORME
AU DOCUMENT DÉTENU PAR LA COUR

Personne désignée par le greffier

J.N.S.

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Hearing date: September 29, 2022

J.N.S.

**Schedule A
Bidding Procedures**

See attached.

Final - September 28, 2022

PROCEDURES FOR THE SALE AND INVESTMENT SOLICITATION PROCESS

Preamble

- A. On September 29, 2022, Xebec Adsorption Inc. (“**Xebec**”), Xebec RNG Holdings Inc., Applied Compression Systems Ltd., Compressed Air International Inc., Xebec Holding USA Inc., Enerphase Industrial Solutions, Inc., California Compression, LLC, CDA Systems, LLC, Xebec Adsorption USA Inc., The Titus Company, Nortekbelair Corporation, Xebec Systems USA, LLC and XBC Flow Services – Wisconsin Inc. (collectively, the “**Petitioners**”) commenced proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) before the Superior Court of Québec (Commercial Division) in the District of Montréal (the “**Court**”) pursuant to an initial order granted by the Court on the same day (collectively, as further amended or restated from time to time, the “**Initial Order**”). On the same day, the Court also issued a Bidding Procedures Order (the “**Bidding Procedures Order**”) that, among other things, authorized Xebec to implement a sale and investment solicitation process (“**SISP**”) in accordance with the terms hereof.
- B. This SISP sets out the manner in which (i) binding bids for executable transaction alternatives involving the shares and/or the business, property and assets of Xebec and of any of its affiliates (collectively, the “**Business**”) will be solicited from interested parties, (ii) any such bids received will be addressed, (iii) any Successful Bid (as defined below) will be selected, and (iv) Court approval of any Successful Bid will be sought. Such transactions may include, among other things, a sale of some or all of the Business’s shares, assets and/or business and/or an investment in the Business, each of which shall be subject to all terms set forth in this SISP.
- C. The SISP shall be conducted by Xebec under the oversight of Deloitte Restructuring Inc., in its capacity as court-appointed monitor (the “**Monitor**”), with the assistance of National Bank Financial Inc. (the “**Financial Advisor**”).
- D. Parties who wish to have their bids considered shall be expected to participate in the SISP as conducted by Xebec and the Financial Advisor in accordance with the present bidding procedures set out herein (the “**Bidding Procedures**”) governing the solicitation of offers or proposals for the acquisition of the Business or some portion thereof.

Defined Terms

1. Capitalized terms used in this SISP have the meanings given thereto in Appendix A.

Bidding Procedures

Opportunity

2. The SISP is intended to solicit interest in, and opportunities for: (i) one or more sales or partial sales of all, substantially all, or certain portions of the Business; and/or (ii) for an investment in, restructuring, recapitalization, refinancing or other form of reorganization of the Petitioners or their Business. Bids considered pursuant to the SISP may include one or more of an investment, restructuring, recapitalization, refinancing or other form of

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reorganization of the business and affairs of the Petitioners as a going concern or a sale (or partial sales) of all, substantially all, or certain of the Business, or a combination thereof (the “**Opportunity**”).

3. The Bidding Procedures describe the manner in which prospective bidders may gain access to due diligence materials concerning the Petitioners and the Business, the manner in which bidders may participate in the SISP, the requirement of and the receipt and negotiation of bids received, the ultimate selection of a Successful Bidder and the requisite approvals to be sought from the Court in connection therewith. The Petitioners and the Financial Advisor shall conduct the SISP in the manner set forth herein.

The Petitioners, in consultation with the Monitor, may at any time and from time to time, modify, amend, vary or supplement the SISP or the Bidding Procedures, without the need for obtaining an order of the Court, provided that the Monitor determines that such modification, amendment, variation or supplement are useful in order to give effect to the substance of the SISP, the Bidding Procedures, the Bidding Procedures Order and the Initial Order.

The Monitor shall post on the Monitor’s website, as soon as practicable, any such modification, amendment, variation or supplement to the Bidding Procedures and Xebec or the Financial Advisor shall inform the bidders impacted by such modifications.

In the event of a dispute as to the interpretation or application of the SISP or Bidding Procedures, the Court will have exclusive jurisdiction to hear and resolve such dispute.

As more particularly set out herein, a summary of the key dates pursuant to the SISP are as follows:¹

<u>Event</u>	<u>Date</u>
1. <u>Approval of Bidding Procedures</u>	September 29, 2022
Phase 1	
2. <u>Solicitation Letter</u> Financial Advisor to distribute Solicitation Letter, to potentially interested parties	Starting on September 29, 2022
3. <u>CIM and VDR</u> Petitioners to prepare and have available for parties having executed the NDA (Potential Bidders) the CIM and VDR	By no later than October 6, 2022
4. <u>Phase 1 Qualified Bidders & Bid Deadline</u> Phase 1 Bid Deadline (for delivery of non-binding LOIs by Phase 1 Qualified Bidders in accordance with the requirement of paragraph 11 of the Bidding Procedures)	By no later than November 11, 2022, at 5:00 p.m. (prevailing Eastern Time)

¹ All capitalized terms not already defined are defined further below. Titles in the chart are for presentation purposes only.

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<u>Event</u>	<u>Date</u>
5. <u>Phase 1 Satisfactory Bid</u> Financial Advisor to notify each Phase 1 Qualified Bidder in writing as to whether its bid constituted a Phase 1 Satisfactory Bid	By no later than November 18, 2022, at 5:00 p.m. (prevailing Eastern Time)
Phase 2	
6. <u>Phase 2 Bid Deadline & Qualified Bidders</u> Phase 2 Bid Deadline (for delivery of definitive offers by Phase 2 Qualified Bidders in accordance with the requirement of paragraph 19 of the Bidding Procedures)	By no later than January 6, 2023, at 5:00 p.m. (prevailing Eastern Time)
7. <u>Auction(s)</u> Auction(s) (if needed)	Week of January 9, 2023
8. <u>Selection of final Successful Bid(s)</u> Deadline for selection of final Successful Bid(s)	By no later than January 13, 2023, at 5:00 p.m. (prevailing Eastern Time)
9. <u>Definitive Documentation</u> Deadline for completion of definitive documentation in respect of Successful Bid(s)	By no later than January 27, 2023
10. <u>Approval Application – Successful Bid(s)</u> Deadline for filing of Approval Application in respect of Successful Bid(s)	Week of January 30, 2023
11. <u>Closing – Successful Bid(s)</u> Anticipated deadline for closing of Successful Bid(s)	January 31, 2023 or such earlier date as is achievable.
12. <u>Outside Date – Closing</u> Outside Date by which the Successful Bid must close	February 7, 2023

Solicitation of Interest: Notice of the SISP

4. As soon as reasonably practicable after the granting of the Bidding Procedures Order:
- (a) a notice of the SISP and such other relevant information which Xebec, in consultation with the Monitor, considers appropriate shall be published in *La Presse+* and *The Globe & Mail* and such other publications as may be considered appropriate; and
 - (b) a press release setting out the notice and such other relevant information regarding the Opportunity as may be considered appropriate, shall be issued with *Canada Newswire* designating dissemination in Canada.

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5. The Financial Advisor shall send to potential bidders, as soon as practical after the granting of the Bidding Procedures Order, a letter describing the Opportunity (a "**Solicitation Letter**"), outlining the salient elements of the SISP and inviting recipients of the Solicitation Letter to express their interest pursuant to the SISP.

Virtual Data Room

6. As soon as practicable, a confidential virtual data room (the "**VDR**") in relation to the Opportunity will be made available by Xebec or the Financial Advisor to Potential Bidders that have executed the NDA (as defined below) in accordance with paragraph 7 herein. Following the completion of "Phase 1", but prior to the completion of "Phase 2", additional information may be added to the VDR to enable Phase 2 Qualified Bidders to complete any confirmatory due diligence in respect of the Petitioners and the Opportunity. The Petitioners, in consultation with the Monitor, may establish or cause the Financial Advisor to establish separate VDRs (including "clean rooms"), if the Petitioners reasonably determine that doing so would further the Petitioners' and any Potential Bidders' compliance with applicable antitrust and competition laws, or would prevent the distribution of commercially sensitive competitive information. The Petitioners, in consultation with the Monitor, may also limit the access of any Potential Bidder to any confidential information in the VDR where the Petitioners reasonably determine that such access could negatively impact the SISP, the ability to maintain the confidentiality of the information, the Business or its value.

PHASE 1: NON-BINDING LOIs

Phase 1 Qualified Bidders and Delivery of Confidential Information Memorandum

7. In order to participate in the SISP, and prior to the distribution of any confidential information to an interested party (including access to the VDR), such interested party must deliver to the Financial Advisor an executed non-disclosure agreement in form and substance satisfactory to the Petitioners, in consultation with the Monitor and the Financial Advisor (each, an "**NDA**"), which shall enure to the benefit of any Successful Bidder that closes a transaction contemplated by its Successful Bid. Pursuant to the terms of the NDA to be signed by a potential bidder (each potential bidder who has executed an NDA with the Petitioners, a "**Potential Bidder**"), each Potential Bidder will be prohibited from communicating with any other Potential Bidder regarding the Opportunity during the term of the SISP, without the consent of the Monitor, in consultation with the Petitioners. Prior to the Petitioners executing an NDA with any potential bidder, any potential bidder may be required to provide evidence, reasonably satisfactory to the Petitioners, in consultation with the Financial Advisor, of its financial wherewithal to complete a transaction in respect of the Opportunity (either with existing capital or with capital reasonably anticipated to be raised prior to closing) and/or to disclose details of their ownership and/or investors. For the avoidance of doubt, a party who has executed an NDA or a joinder with a Potential Bidder for the purpose of providing financing to a Potential Bidder in connection with the Opportunity (such party a "**Financing Party**") shall not be deemed a Potential Bidder for purposes of the SISP, provided that such Financing Party undertakes to inform the Petitioners in the event that it elects to act as a Potential Bidder.

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8. A Potential Bidder that has executed an NDA and provided any additional information required pursuant to paragraph 7, will be deemed a “**Phase 1 Qualified Bidder**” and will be promptly notified of such classification by the Financial Advisor.
9. The Petitioners and the Financial Advisor will prepare (with the oversight of the Monitor) and send to each Phase 1 Qualified Bidder a confidential information memorandum providing additional information considered relevant to the Opportunity (a “**CIM**”) as soon as practicable. The Petitioners, the Financial Advisor, the Monitor and their respective advisors make no representation or warranty as to the information contained in the CIM or otherwise made available pursuant to the SISP.
10. The Financial Advisor shall provide any person deemed to be a Phase 1 Qualified Bidder with access to the VDR. The Petitioners, the Financial Advisor and the Monitor and their respective advisors make no representation or warranty as to the information contained in the VDR.
11. If a Phase 1 Qualified Bidder wishes to submit a bid, it must deliver a non-binding letter of intent (an “**LOI**”) (each such LOI, provided in accordance with paragraph 12 below, a “**Phase 1 Qualified Bid**”), to the Financial Advisor at the address specified in Appendix B hereto (including by email) so as to be received by the Financial Advisor not later than 5:00 p.m. (prevailing Eastern Time) on November [11], 2022 or such other date or time as may be agreed by the Petitioners, with the consent of the Monitor (the “**Phase 1 Bid Deadline**”).
12. An LOI submitted by a Phase 1 Qualified Bidder will only be considered a “**Phase 1 Qualified Bid**” if the LOI complies at a minimum with the following:
 - (a) it has been duly executed by all required parties;
 - (b) it is received by the Phase 1 Bid Deadline;
 - (c) it contains an agreement by the Phase 1 Qualified Bidder to be bound by the terms of the SISP;
 - (d) it provides written evidence, satisfactory to the Monitor, in consultation with the Petitioners, of the ability to fully fund and consummate the transaction within the timeframe contemplated by the SISP and to satisfy any obligations or liabilities to be assumed on closing of the transaction, including, without limitation, a specific indication of the sources of capital and;
 - (e) it identifies all proposed material conditions to closing including, without limitation, any internal, regulatory or other approvals and any form of agreement or other document required from a government body, stakeholder or other third party, and an estimate of the anticipated timeframe and any anticipated impediments for obtaining such approvals, along with information sufficient for the Monitor, in consultation with the Petitioners, to determine that these conditions are reasonable in relation to the Phase 1 Qualified Bidder,

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- (f) it (i) identifies the Qualified Phase 1 Bidder and representatives thereof who are authorized to appear and act on behalf of the Qualified Phase 1 Bidder for all purposes regarding the contemplated transaction, and (ii) fully discloses the identity of each entity or person that will be sponsoring, participating in or benefiting from the transaction contemplated by the LOI;
- (g) an outline of the due diligence completed to the date of submission of the LOI and any additional due diligence required to be conducted in order to submit a binding offer;
- (h) it clearly indicates:
 - (i) that the Phase 1 Qualified Bidder is seeking to acquire all or substantially all of the Business, whether through an asset purchase, a share purchase or a combination thereof (either one being, a “**Sale Proposal**”) or some other portion of the Business (a “**Partial Sale Proposal**”); and/or
 - (ii) whether the Phase 1 Qualified Bidder is offering to make an investment in, restructure, recapitalize, reorganize or refinance the Petitioners or their business (an “**Investment Proposal**”); and
- (i) it contains such other information as may be reasonably requested by the Petitioners, in consultation with the Financial Advisor and the Monitor;
- (j) in the case of a Sale Proposal, it identifies or contains the following:
 - (i) the purchase price or price range and key assumptions supporting the valuation and the anticipated amount of cash payable on closing of the proposed transaction;
 - (ii) any contemplated purchase price adjustment;
 - (iii) a description of the specific assets that are expected to be subject to the transaction and any assets expected to be excluded;
 - (iv) a description of those liabilities and obligations (including operating liabilities and obligations to employees) which the Phase 1 Qualified Bidder intends to assume and which such liabilities and obligations it does not intend to assume;
 - (v) a description of the anticipated tax planning, if any;
 - (vi) information sufficient for the Monitor, in consultation with the Petitioners, to determine that the Phase 1 Qualified Bidder has sufficient ability to satisfy and perform any liabilities or obligations assumed pursuant to subparagraph (iv) above; and
 - (vii) any other terms or conditions of the Sale Proposal or Partial Sale Proposal that the Phase 1 Qualified Bidder believes are material to the transaction; and

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- (k) in the case of an Investment Proposal, it identifies the following:
- (i) a description of how the Phase 1 Qualified Bidder proposes to structure the proposed investment, restructuring, recapitalization, refinancing or reorganization;
 - (ii) the aggregate amount of the equity and/or debt investment to be made in the Petitioners or their business;
 - (iii) the underlying assumptions regarding the *pro forma* capital structure;
 - (iv) a description of those liabilities and obligations (including operating liabilities and obligations to employees) which the Phase 1 Qualified Bidder intends to assume and which such liabilities and obligations it does not intend to assume;
 - (v) information sufficient for the Monitor, in consultation with the Petitioners, to determine that the Phase 1 Qualified Bidder has sufficient ability to satisfy and perform any liabilities or obligations assumed pursuant to subparagraph (iv) above; and
 - (vi) any other terms or conditions of the Investment Proposal that the Phase 1 Qualified Bidder believes are material to the transaction.
13. The Petitioners, with the consent of the Monitor, may waive compliance with any one or more of the requirements specified in paragraph 12 and deem any such non-compliant LOI to be a Phase 1 Qualified Bid.

Assessment of Phase 1 Qualified Bids and Subsequent Process

14. The Petitioners, in consultation with the Monitor and the Financial Advisor, may, following the receipt of any LOI, seek clarification with respect to any of the terms or conditions of such LOI and/or request and negotiate one or more amendments to such LOI prior to determining if the LOI should be considered a Phase 1 Qualified Bid or a Phase 1 Satisfactory Bid (as defined below).
15. Following the Phase 1 Bid Deadline, the Petitioners shall determine, in accordance with the requirements of paragraph 12 and in consultation and with the Monitor, the LOI(s) that are selected as the most favourable Phase 1 Qualified Bid(s), which Phase 1 Qualified Bid(s) shall be deemed a “**Phase 1 Satisfactory Bid(s)**” and which Phase 1 Qualified Bidder(s) accordingly shall be deemed a “**Phase 2 Qualified Bidder(s)**”, if any. For greater certainty, there can be more than one Phase 1 Qualified Bid that may be determined as being a Phase 1 Satisfactory Bid, and more than one Phase 1 Qualified Bidder that may be determined as being a Phase 2 Qualified Bidder.
16. Only Phase 2 Qualified Bidders – being those that have submitted a Phase 1 Satisfactory Bid – shall be permitted to proceed to Phase 2 of the SISF.
17. The Financial Advisor shall notify each Phase 1 Qualified Bidder in writing as to whether its Phase 1 Qualified Bid constituted a Phase 1 Satisfactory Bid – such that it is a Phase 2

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Qualified Bidder – within five (5) Business Days of the Phase 1 Bid Deadline, or at such later time as the Petitioners deem appropriate, in consultation with the Monitor and the Financial Advisor.

18. In the event that no Phase 1 Satisfactory Bid is selected, the Petitioners may, with the approval of the Monitor, and in consultation with the Financial Advisor, terminate the SISF.

PHASE 2: FORMAL OFFERS AND REMOVAL OF CONDITIONS

Formal Binding Offers

19. Any Phase 2 Qualified Bidder that wishes to make a formal offer with respect to its Sale Proposal or Investment Proposal shall submit a binding offer (a “**Binding Offer**”) comprising: (a) in the case of a Sale Proposal, a purchase agreement; or (b) in the case of an Investment Proposal, a plan or restructuring support agreement in form and substance satisfactory to the Petitioners, in consultation with the Monitor (each, such Binding Offer submitted in accordance with paragraph 20 below, a “**Phase 2 Qualified Bid**”) in each case to the Financial Advisor, so as to be received by the Financial Advisor not later than 5:00 p.m. (prevailing Eastern Standard Time) on January 6, 2023, or such other date or time as may be agreed by the Petitioners, with the consent of the Monitor (as may be extended the “**Phase 2 Bid Deadline**”).
20. A Binding Offer will only be considered as a Phase 2 Qualified Bid if the Binding Offer if it:
 - (a) has been received by the Phase 2 Bid Deadline;
 - (b) is a Binding Offer: (i) to purchase all, substantially all, or a portion of the Business; and/or (ii) to make an investment in, restructure, recapitalize, reorganize or refinance the Petitioners or their business, on terms and conditions reasonably acceptable to the Petitioners;
 - (c) identifies all executory contracts of the Petitioners that the Phase 2 Qualified Bidder will assume and clearly describes, for each contract or on an aggregate basis, how all monetary defaults and non-monetary defaults will be remedied, as applicable;
 - (d) is not subject to any due diligence or financing condition;
 - (e) contains evidence of authorization and approval from the Phase 2 Qualified Bidder’s board of directors (or comparable governing body) and, if necessary to complete the transaction, Phase 2 Qualified Bidder’s equityholder(s);
 - (f) is unconditional, other than upon the receipt of the Approval Order(s) (as defined below) and satisfaction of any other conditions expressly set forth in the Binding Offer;
 - (g) includes acknowledgments and representations of the Phase 2 Qualified Bidder that it: (i) has had an opportunity to conduct any and all due diligence regarding the Opportunity prior to making its Binding Offer; (ii) has relied solely upon its own

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independent review, investigation and/or inspection of any documents and/or the Business in making its Binding Offer; (iii) did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Opportunity or the completeness of any information provided in connection therewith, other than as expressly set forth in the Binding Offer or other transaction document submitted with the Binding Offer; and (iv) promptly will commence any governmental or regulatory review of the proposed transaction by the applicable competition, antitrust or other applicable governmental authorities;

- (h) the Binding Offer must be accompanied by a letter that confirms that the Binding Offer: (i) may be accepted by the Petitioners by countersigning the Binding Offer, and (ii) is irrevocable and capable of acceptance until the earlier of (A) two Business Days after the date of closing of the Successful Bid; and (B) the Outside Date;
- (i) does not provide for any break fee, expense reimbursement or similar type of payment;
- (j) is accompanied by a cash deposit in the amount of not less than 10% of the cash purchase price payable on closing or total new investment contemplated, as the case may be (the “**Deposit**”), along with acknowledgement that if the Phase 2 Qualified Bidder is selected as the Successful Bidder (as defined below), that the Deposit will be non-refundable subject to approval of the Successful Bid (as defined below) by the Court and the terms described in paragraph 29 below;
- (k) contemplates and reasonably demonstrates a capacity to consummate a closing of the transaction set out therein on or before January 31, 2023, or such earlier date as is practical for the parties to close the contemplated transaction, following the satisfaction or waiver of the conditions to closing (the “**Target Closing Date**”) and in any event no later than February 7, 2023 (the “**Outside Date**”);
- (l) contemplates that the Phase 2 Qualified Bidder will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed transaction, and by submitting its bid, is agreeing to refrain from and waive any assertion or request for reimbursement on any basis.

Selection of Successful Bid(s)

- 21. The Petitioners, in consultation with the Monitor and the Financial Advisor, may, following the receipt of any Binding Offer, seek clarification with respect to any of the terms or conditions of such Binding Offer and/or request and negotiate one or more amendments to such Binding Offer prior to determining if the Binding Offer should be considered a Phase 2 Qualified Bid.
- 22. The Petitioners and the Financial Advisor, in consultation with the Monitor, will: (a) review and evaluate each Phase 2 Qualified Bid with respect of, among other things, (i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or waiver of liabilities not

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otherwise accounted for in item (i) above; (iii) the likelihood of the Phase 2 Qualified Bidder's ability to close a transaction and the timing thereof (including factors such as the transaction structure and execution risk, including conditions to, timing of, and certainty of closing; termination provisions; financial wherewithal to meet all commitments; and required governmental or other approvals), (iv) the likelihood of the Court's approval of the Phase 2 Qualified Bid as a Successful Bid, (v) the net benefit to the Petitioners and its stakeholders, and (vi) any other factors the Petitioners may deem relevant; and (b) identify the highest or otherwise best non-overlapping bids (the "**Successful Bid(s)**"), and the Phase 2 Qualified Bidder(s) making such Successful Bid(s), the "**Successful Bidder(s)**"). Any Successful Bid shall be subject to approval by the Court.

23. In the alternative, the Petitioners, in consultation with the Financial Advisor and the Monitor, may: (a) continue negotiations with a selected number of Phase 2 Qualified Bidders (collectively, the "**Selected Bidders**") with a view to finalizing an agreement with one or more of the Selected Bidders and declaring such bids to constitute Successful Bids, or (b) conduct one or more auctions (the "**Auction(s)**") to determine the highest or otherwise best non-overlapping Sale Proposals, Partial Sale Proposals or Investment Proposals, pursuant to Auction rules to be determined by the Petitioners, in consultation with the Financial Advisor and the Monitor.
24. In an event that an Auction or Auctions will be held, all Phase 2 Qualified Bidders who submitted a Phase 2 Qualified Bid that the Petitioners determine, in consultation with the Financial Advisor and the Monitor, entitles such Phase 2 Qualified Bidder to participate in the Auction, will be promptly advised by the Financial Advisor of such determination, and informed of the procedures applicable to such Auction.
25. In the event no Phase 2 Qualified Bidder submits a Phase 2 Qualified Bid, the Petitioners may, with the approval of the Monitor, and in consultation with the Financial Advisor, terminate the SISP.
26. The final Successful Bid(s) shall be selected by no later than January [13], 2023 and the definitive documentation in respect of the Successful Bid must be finalized and executed no later than January [27], 2023, which definitive documentation shall be conditional only upon the receipt of the Approval Order(s) and the express conditions set out therein and shall provide that the Successful Bidder shall use all reasonable efforts to close the proposed transaction by no later than the Target Closing Date, or such longer period as shall be agreed to by the Petitioners in consultation with the Monitor, and the Successful Bidder. In any event, the Successful Bid must be closed by no later than the Outside Date.

Approval of Successful Bid(s)

27. The Petitioners shall apply to the Court (the "**Approval Application**") for one or more orders: (i) approving the Successful Bid(s) and authorizing the taking of such steps and actions and completing such transactions as are set out therein or required thereby; and (ii) granting a vesting order and/or reverse vesting order to the extent that such relief is contemplated by the Successful Bid(s), as applicable, so as to vest title to any purchased assets in the name of the Successful Bidder(s) and/or vesting unwanted liabilities out of one or more of the Petitioners (collectively, the "**Approval Order(s)**"). The Approval Application will be held on a date to be scheduled by the Petitioners and confirmed by the

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Court upon application by the Petitioners, who shall use their best efforts to schedule the Approval Application during the week of January 30, 2022, subject to Court availability. With the consent of the Monitor and the Successful Bidder(s), the Approval Application may be adjourned or rescheduled by the Petitioners without further notice, by an announcement of the adjourned date at the Approval Application or in a notice to the service list of the CCAA Proceedings prior to the Approval Application. The Petitioners shall consult with the Monitor, the Successful Bidder regarding the application material to be filed by the Petitioners for the Approval Application.

28. Any Phase 2 Qualified Bid (other than a Successful Bid as the case may be) shall be deemed rejected on and as of the date of the closing of an overlapping Successful Bid, with no further or continuing obligation of the Petitioners to such unsuccessful Phase 2 Qualified Bidder.

Deposits

29. The Deposit(s):
- (a) shall, upon receipt from the Phase 2 Qualified Bidder(s), be retained by the Monitor and deposited in a non-interest-bearing trust account;
 - (b) received from the Successful Bidder(s), shall:
 - (i) be applied to the purchase price to be paid by the applicable Successful Bidder whose Successful Bid is the subject of an Approval Order, upon closing of the approved transaction; and
 - (ii) shall otherwise be held and refundable in accordance with the terms of the definitive documentation in respect of any Successful Bid, provided that all such documentation shall provide that the Deposit shall be retained by the Petitioners and forfeited by the Successful Bidder, if the Successful Bid fails to close by the Outside Date, and such failure is attributable to any failure or omission of the Successful Bidder to fulfil its obligations under the terms of the Successful Bid; and
 - (c) received from a Phase 2 Qualified Bidder that is not an overlapping Successful Bidder shall be fully refunded, to the Phase 2 Qualified Bidder that paid the Deposit as soon as practical following the closing of the transaction contemplated by the Successful Bid of such Successful Bidder and in any event no later than February 7, 2023.

“As is, Where is”

30. Any sale(s) or investment(s) made pursuant to this SISF will be on an “as is, where is” basis except for representations and warranties that are customarily provided in purchase agreements for a company subject to CCAA proceedings. Any such representations and warranties provided for in the definitive documents shall not survive closing.

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Further Orders

31. At any time during the SISP, the Petitioners, or the Monitor may apply to the Court for advice and directions with respect to any aspect of this SISP and the Bidding Procedures including, but not limited to, the continuation of the SISP or with respect to the discharge of their powers and duties hereunder.

Additional Terms

32. In addition to any other requirement of these Bidding Procedures:
- (a) The Petitioners and the Financial Advisor, as applicable, shall at all times prior to the selection of a Successful Bid use commercially reasonable efforts to facilitate a competitive bidding process in the SISP including, without limitation, by actively soliciting participation by all persons who would be customarily identified as high potential bidders in a process of this kind or who may be reasonably proposed by any the Petitioners' stakeholders as a high potential bidder.
 - (b) Any consent, approval or confirmation to be provided by the Petitioners and/or the Monitor is ineffective unless provided in writing and any approval required pursuant to the terms hereof is in addition to, and not in substitution for, any other approvals required by the CCAA or as otherwise required at law in order to implement a Successful Bid. For the avoidance of doubt, a consent, approval or confirmation provided by email shall be deemed to have been provided in writing for the purposes of this paragraph.
 - (c) Nothing in this SISP shall require that a Successful Bid or any other bid must be approved by the Court. The Court at all times retains the discretion to direct the clarification, termination, extension or modification of the SISP and Bidding Procedures on application of any interested party.
 - (d) Prior to the seeking of Court approval for any transaction or bid contemplated by this SISP, the Monitor will provide a report to the Court on the SISP process, parts of which may be filed under seal, including in respect of any and all bids received.

**APPENDIX A
DEFINED TERMS**

- “**Approval Application**” shall have the meaning set forth in paragraph 27.
- “**Approval Order(s)**” shall have the meaning set forth in paragraph 27.
- “**Auction(s)**” shall have the meaning set forth in paragraph 23.
- “**Bidding Procedures**” shall have the meaning set forth in the preamble.
- “**Bidding Procedures Order**” shall have the meaning set forth in the preamble.
- “**Binding Offer**” shall have the meaning set forth in paragraph 19.
- “**Business**” shall have the meaning set forth in the preamble.
- “**Business Day**” means a day on which banks are open for business in Montréal but does not include a Saturday, Sunday or statutory holiday in the Province of Québec.
- “**CCAA**” shall have the meaning set forth in the preamble.
- “**CCAA Proceedings**” shall have the meaning set forth in the preamble.
- “**CIM**” shall have the meaning set forth in paragraph 9.
- “**Court**” shall have the meaning set forth in the preamble.
- “**Deposit**” shall have the meaning set forth in paragraph 20(j).
- “**Financing Party**” shall have the meaning set forth in paragraph 7.
- “**Initial Order**” shall have the meaning set forth in the preamble.
- “**Investment Proposal**” shall have the meaning set forth in paragraph 12(h)(i).
- “**LOI**” shall have the meaning set forth in paragraph 11.
- “**Monitor**” shall have the meaning set forth in the preamble.
- “**NDA**” shall have the meaning set forth in paragraph 7.
- “**Opportunity**” shall have the meaning set forth in paragraph 2.
- “**Outside Date**” shall have the meaning set forth in paragraph 20(k).
- “**Partial Sale Proposal**” shall have the meaning set forth in paragraph 12(h)(i).
- “**Petitioners**” shall have the meaning set forth in the preamble.
- “**Phase 1 Bid Deadline**” shall have the meaning set forth in paragraph 11.

J.N.S.

- 2 -

“**Phase 1 Qualified Bid**” shall have the meaning set forth in paragraph 11.

“**Phase 1 Qualified Bidder**” shall have the meaning set forth in paragraph 8.

“**Phase 1 Satisfactory Bid**” shall have the meaning set forth in paragraph 15.

“**Phase 2 Bid Deadline**” shall have the meaning set forth in paragraph 19.

“**Phase 2 Qualified Bid**” shall have the meaning set forth in paragraph 19.

“**Phase 2 Qualified Bidder**” shall have the meaning set forth in paragraph 15.

“**Potential Bidder**” shall have the meaning set forth in paragraph 7.

“**Sale Proposal**” shall have the meaning set forth in paragraph 12(h)(i).

“**Selected Bidders**” shall have the meaning set forth in paragraph 23.

“**SISP**” shall have the meaning set forth in the preamble.

“**Solicitation Letter**” shall have the meaning set forth in paragraph 5.

“**Successful Bid**” shall have the meaning set forth in paragraph 22.

“**Successful Bidder**” shall have the meaning set forth in paragraph 22.

“**Target Closing Date**” shall have the meaning set forth in paragraph 20(k).

“**VDR**” shall have the meaning set forth in paragraph 6.

J.W.K.

Exhibit C

U.S. Mail Notice

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

Hearing Date:

January 12, 2023, at 9:30 a.m. (ET)

Objection Deadline:

January 5, 2023, at 4:00 p.m. (ET)

NOTICE OF MOTION FOR ENTRY OF AN ORDER (A) APPROVING 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

PLEASE TAKE NOTICE that on December 21, 2022, Xebec Adsorption Inc., in its capacity as the authorized foreign representative (the "Foreign Representative") for the above-captioned debtors (collectively, the "Debtors") filed the *Motion for Entry of an Order (A) Approving 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* (the "Noticing Procedures Motion"), seeking entry of an order (a) approving noticing and objection procedures for the filing of a motion (a "U.S. Sale Motion") by the Debtors, which will seek entry of an order (i) approving the sale of certain of the Debtors' assets located in the United States, free and clear of liens, claims, encumbrances, and interests under section 363 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"); (ii) authorizing the assumption and assignment of executory contracts and unexpired leases; and (iii) recognizing and enforcing an order approving a sale of the Debtors' assets (the "Canadian Sale Order"), entered by the Superior Court of Québec, in the Province of Québec, District of Montréal (the "Canadian Court"), in a proceeding (the "Canadian Proceeding") commenced under Canada's Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended; (b) seeking an expedited hearing on the U.S. Sale Motion; and (c) granting related relief. A true and correct copy of the Noticing Procedures Motion is attached hereto as **Exhibit A**.

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.

PLEASE TAKE FURTHER NOTICE that the Bankruptcy Court has scheduled a hearing for **January 12, 2023, at 9:30 a.m. (prevailing Eastern time)**, before the Honorable Karen B. Owens (the "Hearing") to consider the relief requested in the Noticing Procedures Motion.

PLEASE TAKE FURTHER NOTICE that any party in interest wishing to submit a response, answer, or objection to the Noticing Procedures Motion must do so pursuant to the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, and such response, answer, or objection must (a) be in writing, (b) set forth in detail the factual and legal bases therefor, (c) be filed with the Office of the Clerk of the Court, 824 Market Street, Wilmington, Delaware 19801, and (d) be served upon counsel for the Foreign Representative, McDonald Hopkins LLC, 300 North LaSalle Street, Suite 1400, Chicago, Illinois 60654, Attn: Josh Gadharf, jgadharf@mcdonaldhopkins.com, and Bielli & Klauder, LLC, 1204 North King Street, Wilmington, Delaware 19801, Attn: David M. Klauder, dklauder@bk-legal.com, so as to be received **January 5, 2023 at 4:00 p.m. (prevailing Eastern time)**.

PLEASE TAKE FURTHER NOTICE that the Debtors are conducting a sale process in Canada for the sale of substantially all of their assets, including the Debtors' assets located in the United States, in accordance the Sale and Investment Solicitation Process approved by the Canadian Court (the "Bidding Procedures").

PLEASE TAKE FURTHER NOTICE that, pursuant to the Bidding Procedures, an auction, if necessary, is currently scheduled for the week of January 9, 2023, and the Debtors anticipate selecting a successful bidder(s) and completing definitive sale documentation on or before January 27, 2023.

PLEASE TAKE FURTHER NOTICE that, during the week of January 30, 2023, the Debtors anticipate seeking a Canadian Sale Order. The Bidding Procedures set February 7, 2023, as the outside date by which a sale must close.

PLEASE TAKE FURTHER NOTICE that, should the Canadian Court enter a Canadian Sale Order, the Foreign Representative intends on filing a motion in these chapter 15 cases (a "U.S. Sale Motion") seeking expedited relief of, among other things: (a) approval, pursuant to section 363 of the Bankruptcy Code, of the sale(s) of the Debtor's United States assets; and (b) recognition and enforcement of such Canadian Sale Order.

PLEASE TAKE FURTHER NOTICE that, by the Noticing Procedures Motion, the Foreign Representative has requested an expedited hearing on the U.S. Sale Motion for **February 3, 2023, at 1:30 p.m. (prevailing Eastern time)**.

PLEASE TAKE FURTHER NOTICE THAT ANY PARTY WISHING TO RECEIVE SERVICE OF THE U.S. SALE MOTION VIA OVERNIGHT MAIL, SHALL SUBMIT A REQUEST TO COUNSEL TO THE FOREIGN REPRESENTATIVE VIA: (A) EMAIL TO JGADHARF@MCDONALDHOPKINS.COM, OR (B) U.S. MAIL OR OVERNIGHT MAIL TO: MCDONALD HOPKINS LLC, 300 NORTH LASALLE STREET, SUITE 1400, CHICAGO, ILLINOIS 60654, ATTN: JOSH GADHARF.

PLEASE TAKE FURTHER NOTICE that copies of the Noticing Procedures Motion, any U.S. Sale Motion, and related filings in these chapter 15 cases are also available (a) on the Monitor’s case-specific website: <https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx>; (b) on the Bankruptcy Court’s Electronic Case Filing System, which can be accessed from the Bankruptcy Court’s website at <http://www.ecf.deb.uscourts.gov> (a PACER login and password are required) or (c) upon request to counsel to the Foreign Representative, via email to jgadharf@mcdonaldhopkins.com, or via U.S. Mail or overnight mail to: McDonald Hopkins LLC, 300 North LaSalle Street, Suite 1400, Chicago, Illinois 60654, Attn: Josh Gadharf.

PLEASE TAKE FURTHER NOTICE that all parties in interest opposed to the Noticing Procedures Motion must appear at the Hearing at the time and place set forth herein, which may be adjourned from time to time without further notice except for an “in court” announcement at the Hearing or a filing on the docket of these chapter 15 cases of the date and time to which the Hearing has been adjourned.

PLEASE TAKE FURTHER NOTICE THAT IF NO RESPONSES OR OBJECTIONS ARE RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED BY THE FOREIGN REPRESENTATIVE WITHOUT FURTHER NOTICE OR HEARING.

Dated: December 21, 2022
Wilmington, Delaware

BIELLI & KLAUDER, LLC

/s/ David M. Klauder

David M. Klauder, Esquire (No. 5769)
1204 N. King Street
Wilmington, Delaware 19801
Phone: (302) 803-4600
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- and -

MCDONALD HOPKINS LLC

David A. Agay (*pro hac vice* admission pending)
Joshua A. Gadharf (*pro hac vice* admission pending)
Ashley J. Jericho (*pro hac vice* admission pending)
300 North LaSalle Street
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jgadharf@mcdonaldhopkins.com
ajericho@mcdonaldhopkins.com

Counsel for the Foreign Representative

Exhibit A

Noticing Procedures Motion

Exhibit D

Overnight Mail Notice

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:

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

Debtors in a foreign proceeding.³

Chapter 15

Case No. 22- 10934 (KBO)

Joint Administration Requested

NOTICE OF MOTION FOR ORDER (I) APPROVING THE SALE OF DEBTORS' U.S. ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS; (II) AUTHORIZING ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (III) RECOGNIZING AND ENFORCING THE CANADIAN CCAA SALE ORDER

PLEASE TAKE NOTICE that on [●], 2023, Xebec Adsorption Inc., in its capacity as the authorized foreign representative (the "Foreign Representative") for the above-captioned debtors (collectively, the "Debtors") filed the *Motion for Order (I) Approving the Sale of Debtors' U.S. Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests; (II) Authorizing Assumption and Assignment of Executory Contracts and Unexpired Leases, and (III) Recognizing and Enforcing the Canadian CCAA Sale Order* (the "U.S. Sale Motion"), seeking entry of an order (a) approving the sale of the Debtors' assets located in the United States, free and clear of liens, claims, encumbrances, and interests under section 363 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"); (b) authorizing the assumption and assignment of executory contracts and unexpired leases; and (c) recognizing and enforcing an order approving a sale of the Debtors' assets, entered by the Superior Court of Québec, in the Province of Québec, District of Montréal, in a proceeding commenced under Canada's Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended. A true and correct copy of the U.S. Sale Motion is attached to this Notice as **Exhibit A**.

PLEASE TAKE FURTHER NOTICE that copies of the U.S. Sale Motion and related filings in these chapter 15 cases are also available (a) on the Monitor's case-specific website: <https://www.insolvencies.deloitte.ca/en-ca/pages/Xebec.aspx>; (b) on the Bankruptcy Court's Electronic Case Filing System, which can be accessed from the Bankruptcy Court's website at <http://www.ecf.deb.uscourts.gov> (a PACER login and password are required) or (c) upon request

³ 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.

to counsel to the Foreign Representative, via email (jgadhurf@mcdonaldhopkins.com), McDonald Hopkins LLC, 300 North LaSalle Street, Suite 1400, Chicago, Illinois 60654, Attn: Josh Gadharf.

PLEASE TAKE FURTHER NOTICE that the Bankruptcy Court has scheduled a hearing for **February 3, 2023 at 1:30 p.m. (prevailing Eastern time)** before the Honorable Karen B. Owens (the “U.S. Sale Hearing”) to consider the relief requested in the U.S. Sale Motion.

PLEASE TAKE FURTHER NOTICE that any party in interest wishing to submit a response, answer, or objection to the U.S. Sale Motion must do so pursuant to the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, and such response, answer, or objection must (a) be in writing, (b) set forth in detail the factual and legal bases therefor, (c) be filed with the Office of the Clerk of the Court, 824 Market Street, Wilmington, Delaware 19801, and (d) be served upon counsel for the Foreign Representative, McDonald Hopkins LLC, 300 North LaSalle Street, Suite 1400, Chicago, Illinois 60654, Attn: Josh Gadharf, jgadhurf@mcdonaldhopkins.com, and Bielli & Klauder, LLC, 1204 North King Street, Wilmington, Delaware 19801, Attn: David M. Klauder, dklauder@bk-legal.com, so as to be received **on or before February 1, 2023 at 5:00 p.m. (prevailing Eastern time)**.

PLEASE TAKE FURTHER NOTICE that all parties in interest opposed to the U.S. Sale Motion must appear at the U.S. Sale Hearing at the time and place set forth herein, which may be adjourned from time to time without further notice except for an “in court” announcement at the U.S. Sale Hearing or a filing on the docket of these chapter 15 cases of the date and time to which the U.S. Sale Hearing has been adjourned.

PLEASE TAKE FURTHER NOTICE THAT IF NO RESPONSES OR OBJECTIONS ARE RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE BANKRUPTCY COURT MAY GRANT THE RELIEF REQUESTED BY THE FOREIGN REPRESENTATIVE WITHOUT FURTHER NOTICE OR HEARING.

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Dated: [●], 2023
Wilmington, Delaware

BIELLI & KLAUDER, LLC

/s/ David M. Klauder

David M. Klauder, Esquire (No. 5769)

1204 N. King Street

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Counsel for the Foreign Representative

Exhibit A

U.S. Sale Motion