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Form 49  
Rule 13.19  
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COURT COURT OF QUEEN'S BENCH OF ALBERTA IN  
BANKRUPTCY AND INSOLVENCY

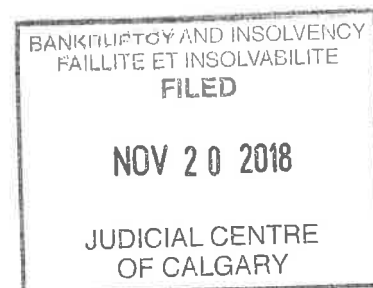
JUDICIAL CENTRE CALGARY

APPLICANT IN THE MATTER OF THE DIVISION I  
PROPOSAL PROCEEDINGS OF ASPEN AIR  
CORPORATION and ASPEN AIR U.S. CORP.

DOCUMENT **AFFIDAVIT**

ADDRESS FOR SERVICE  
AND CONTACT  
INFORMATION OF PARTY  
FILING THIS DOCUMENT

McMillan LLP  
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Attention : Adam Maerov  
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Kourtney Rylands  
Phone: 403-355-3326  
Email: kourtney.rylands@mcmillan.ca

File No. 258090

### **AFFIDAVIT OF DAVID TSUMAGARI**

**Sworn November 20, 2018**


I, David Tsumagari, of the City of Calgary, in the Province of Alberta, MAKE OATH AND SAY THAT:

1. I am a legal assistant at McMillan LLP and as such have personal knowledge of the facts and matters deposed to herein, or if based upon information and belief I verily believe the same to be true.

2. I am 18 years of age or older.

3. Attached as **Exhibit "A"** is an Assignment and Assumption Agreement dated November 16, 2018, between Aspen Air Corporation, Aspen Air U.S. Corp., Aspen Air U.S., LLC and Invico Diversified Income Fund Limited Partnership.

SWORN BEFORE ME at City of Calgary, )  
Alberta, this 20<sup>th</sup> day of November, 2018 )  
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\_\_\_\_\_  
Commissioner for Oaths in and for Alberta

  
\_\_\_\_\_  
DAVID TSUMAGARI

**Connie Prefontaine**  
A Commissioner for Oaths in and for Alberta  
My Commission Expires August 5, 2021

## **EXHIBIT A**

This is Exhibit "A" referred to in  
the Affidavit of David Tsumagari,  
sworn before me this 20<sup>th</sup>  
day of November, 2018



A Commissioner for Oaths  
in and for the Province of Alberta

**Connie Prefontaine**  
A Commissioner for Oaths in and for Alberta  
My Commission Expires August 5, 2021

## ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (the “**Agreement**”), is made as of November 16, 2018, and entered into by and between Aspen Air Corporation, an Alberta corporation (“**Aspen Canada**”), **Aspen Air U.S. Corp.**, a Montana corporation (“**Aspen US**”), **Aspen Air U.S., LLC**, a Montana limited liability company (“**Aspen LLC**”), and Invico Diversified Income Fund Limited Partnership (“**Invico LP**”).

WHEREAS, pursuant to the Agreement of Purchase and Sale dated November 9, 2018 (the “**APS**”) between Aspen US and Aspen LLC, (a) Aspen US agreed to sell to Aspen LLC and Aspen LLC agreed to purchase from Aspen US, certain assets of Aspen US;

WHEREAS, Aspen Canada issued 254 units of subordinated securities to Canadian Cryogenics Gases & Cylinders, Ltd. (“**CCGC**”, and such units and all rights and remedies of CCGC in connection therewith being the “**Subordinated Debt Documents**”) and on August 22, 2018, Invico LP purchased all of the rights and benefits of CCGC to and under the Subordinated Debt Documents;

WHEREAS, as of November 8, 2018, US \$3,457,863 on account of principal together with accrued and unpaid interests was owing to Invico LP under the Subordinated Debt Documents (the “**Subordinated Debt**”);

WHEREAS, the APS was conditional upon Aspen US assuming the obligations of Aspen Canada to Invico LP under the Subordinated Debt Documents and the Subordinated Debt and Aspen Canada ceasing to be liable for the Subordinated Debt;

WHEREAS, Aspen Canada has certain office furniture and equipment identified on Schedule “A” hereto (collectively, the “**Furniture**”) at its leased premises in Canada, and a leased motor vehicle described on Schedule “A” hereto (the “**Vehicle**”), and Aspen Canada has agreed to transfer and convey the Furniture and Vehicle to Aspen LLC;

WHEREAS, Aspen Canada has placed life insurance on Onkar Dhaliwal, the details of which are set out on Schedule “A” hereto (the “**Insurance**”), and Aspen Canada is willing to transfer to Aspen LLC its right, title and interest in and to the Insurance.

NOW, THEREFORE, pursuant to the APS and in consideration of the mutual promises it contains, and for other good and valuable consideration, the receipt and sufficiency of which parties hereto each acknowledge, the parties agree as follows:

1. Definitions. Unless otherwise defined herein, all capitalized terms used in this Agreement shall have the respective meanings given to them in the APS.
2. Assignments, Transfers and Assumptions. Effective on Closing:
  - (a) Aspen LLC hereby assumes the Subordinated Debt and any of the obligations of Aspen Canada under the Subordinated Debt Documents, and


agrees to be bound by all the terms, covenants and obligations of Aspen Canada under the Subordinated Debt Documents;

- (b) Aspen Canada hereby transfers and conveys to Aspen LLC all of its right, title and interest in and to the Furniture, the Vehicle and any rights to the name "Aspen", "Aspen Air", any other name under which it carried on business, or any derivation thereof;
  - (c) Aspen Canada hereby assigns to Aspen LLC all of its right, title and interest in and to the Insurance, and Aspen LLC hereby assumes any and all obligations of Aspen Canada under the Insurance; and
  - (d) In consideration of the foregoing, Invico LP hereby releases Aspen Canada from the Subordinated Debt and any indebtedness, liability or obligation under the Subordinated Debt Documents, and Invico LP and Aspen LLC release Aspen Canada from any recourse they may have against Aspen Canada and all of its agents, employees, representatives, officers, directors, legal counsel and advisors with respect to any and all claims, liabilities and indebtedness, including without limitation, the Invico Facility, the Interim Financing and the Leases.
3. Name Changes. Promptly following the Closing, Aspen Canada and Aspen US shall file with applicable Governmental Authorities amendments to their constating documents and take all other steps necessary to change their names to numbered company names or names that do not include the phrase "Aspen Air" or suggest that they are in competition with Aspen LLC.
  4. Convertibility of Subordinated Debt. At the election of Invico LP, the Subordinated Debt shall be convertible into common shares in the capital of Aspen LLC at a rate of one common share for each dollar of Subordinated Debt.
  5. Binding Agreement. The provisions of this Agreement are intended to be binding upon the parties hereto and their respective successors and assigns.
  6. Governing Law. This Agreement (including any claim or controversy arising out of or relating to this Agreement) shall be governed by and construed in accordance with the laws of the Province of Alberta and any federal laws of Canada applicable therein.
  7. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.


*[Signature page follows]*

IN WITNESS WHEREOF, the parties have executed this Agreement as of and on the date first above written.

ASPEN AIR CORPORATION

By:   
Name: DUKAN DHALLIWAL  
Title: CEO

ASPEN AIR U.S. CORP.

By:   
Name: DUKAN DHALLIWAL  
Title: CEO

ASPEN AIR U.S., LLC

By: \_\_\_\_\_  
Name:  
Title:

INVICO DIVERSIFIED INCOME FUND LIMITED PARTNERSHIP

By: \_\_\_\_\_  
Name:  
Title:

[Signature Page – Assumption Agreement]

IN WITNESS WHEREOF, the parties have executed this Agreement as of and on the date first above written.


ASPEN AIR CORPORATION

By: \_\_\_\_\_  
Name:  
Title:

ASPEN AIR U.S. CORP.

By: \_\_\_\_\_  
Name:  
Title:

ASPEN AIR U.S. LLC

By:   
Name: Jason Brooks  
Title: Director

INVICO DIVERSIFIED INCOME FUND LIMITED PARTNERSHIP

By:   
Name: Allison Taylor  
Title: CEO.

[Signature Page – Assumption Agreement]

## Schedule "A"

### 1. Furniture

- (a) 4 – office desks
- (b) 1 – boardroom table and accompanying chairs
- (c) 3 – bookshelves
- (d) 2 – fireproof file cabinets
- (e) 2 – foldable desks
- (f) 1 – couch
- (g) 1 – coat closet
- (h) 1 – credenza large
- (i) 1 – credenza medium
- (j) 1 – file hutch

### 2. Leased Vehicle

2018 F150 Pick-up truck – VIN # 1FTEW1E55JFD99131

### 3. Insurance

Life Insurance Policy – 20 Pay Life Par Policy

Policy No. B797594-7