

**SUPERIOR COURT
(Commercial Division)**

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-061483-224

DATE: March 16, 2023

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

IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF:

**FORMERXBC INC. (FORMERLY XEBEC ADSORPTION INC.)
11941666 CANADA INC. (FORMERLY XEBEC RNG HOLDINGS INC.)
APPLIED COMPRESSION SYSTEMS LTD.
1224933 ONTARIO INC. (FORMERLY 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

**ORDER AUTHORIZING THE MONITOR TO PAY CERTAIN AMOUNTS OWED TO
BENEFICIARIES OF CCAA CHARGES**

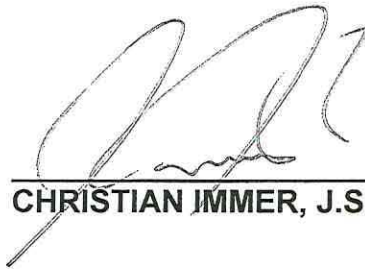
- [1] **CONSIDERING** the *Application of the Monitor for Authorization of Payments in Connection with the CCAA Charges and Related Relief* (the "**Application**") pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended ("**CCAA**"), the exhibits thereto and the affidavit of Mr. Jean-François Nadon, filed in support thereof;
- [2] **CONSIDERING** the Seventh Report of the Monitor dated March 15, 2023;
- [3] **CONSIDERING** the submissions of counsel;
- [4] **CONSIDERING** the Fourth Amended and Restated Initial Order (the "**Fourth ARIO**") issued by this Court on March 16, 2023;
- [5] **CONSIDERING** that, following the issuance of the AVOs, the Monitor issued four (4) certificates on February 7, 15, 21 and 27, 2023, which were filed in the Court record, and which confirmed the closing of the Transactions relating thereto;
- [6] **GIVEN** that, pursuant to the AVOs, the Net Proceeds of the Transactions were transferred to the Monitor and are currently held in trust by the Monitor;
- [7] **GIVEN** that it is appropriate and justified that the Monitor be allowed to pay from the Net Proceeds, sums owed to beneficiaries of the CCAA Charges, the whole in accordance with the mechanism set forth hereinafter;
- [8] **GIVEN** the provisions of the CCAA:

THE COURT HEREBY:

- [9] **GRANTS** the Application.
- [10] **ORDERS** that **Exhibit M-2**, filed in support of the Application shall be filed under seal and kept confidential until further order of this Court.
- [11] **DECLARES** that, unless otherwise defined, all capitalized terms in this Order shall have the meaning ascribed thereto in the Application.
- [12] **DECLARES** that the Monitor is authorized to pay, from the Net Proceeds, amounts owed under the DIP Charge, the Second DIP Charge, and the Transaction Charge, as and when they become due, without further order by this Court.

- [13] **DECLARES** that, upon making payments pursuant to paragraph [12] herein in respect of the DIP Charge, the Second DIP Charge and the Transaction Charge, and upon receiving confirmation, respectively of (i) EDC and NBC, (ii) EDC, and (iii) NBF of the reimbursement of the obligations secured by these charges, the Monitor shall notify and file with the Court record a certificate confirming and effecting the cancellation and discharge of the DIP Charge, the Second DIP Charge, and the Transaction Charge, as applicable and as the case may be, without further order of this Court.
- [14] **DECLARES** that the Monitor is authorized to pay, from the Net Proceeds, amounts owed under the KERP Charge, as and when they become due, without further order by this Court.
- [15] **DECLARES** that, upon making payments pursuant to paragraph [14] herein in relation to the KERP Charge, the Monitor shall notify and file with the Court record a certificate confirming and effecting the reduction and/or the cancellation and discharge of the KERP Charge, as the case may be, in an amount equivalent to the payments made, and without further order of this Court.
- [16] **DECLARES**, for greater certainty, that the certificates of the Monitor to be issued and filed pursuant to this order, shall validly reduce and/or discharge the CCAA Charges, as applicable, without the necessity of a future amendment of the Fourth ARIIO or of a supplemental or subsequent order of this Court.
- [17] **ORDERS** that notwithstanding:
- (a) the pendency of these proceedings;
 - (b) any petition for a bankruptcy order now or hereafter issued pursuant to the BIA and any order issued pursuant to any such petition; or
 - (c) the provisions of any federal or provincial legislation;
- the execution of this Order, and the payments made pursuant to or in connection with this Order are to be binding on any trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Petitioners, the beneficiaries of the CCAA Charges or the Monitor.
- [18] **DECLARES** that this Order shall have full force and effect in all provinces and territories of Canada.
- [19] **DECLARES** that the Monitor may, from time to time, apply to this Court for directions concerning the exercise of its powers, duties and rights hereunder or in respect of the proper execution of this Order.

- [20] **REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body in any Province of Canada and any Canadian federal court or in the United States of America, including without limitation the United States Bankruptcy Court for the District of Delaware, and any court or administrative body elsewhere, to give effect to this Order, and to assist the Monitor and its respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be necessary or desirable to give effect to this Order in any foreign proceeding, to assist the Monitor and its respective agents in carrying out this Order.
- [21] **ORDERS** that any prior delay for the presentation of the Application is hereby abridged and validated so that the Application is properly returnable and dispenses with further service thereof.
- [22] **PERMITS** service of this Order at any time and place and by any means whatsoever.
- [23] **THE WHOLE** without costs.



CHRISTIAN IMMÉR, J.S.C.

MTRE. JOCELYN T. PERREAULT
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McCarthy Tétrault LLP
Attorneys for the Monitor

Hearing date: March 16, 2023