

**SUPERIOR COURT  
(Commercial Division)**

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

No.: 500-11-061483-224

DATE: February 17, 2023

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

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***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

And

**IVYS ADSORPTION INC.  
IVYS, INC.**

Impleaded Parties (Buyers)

And

**THE REGISTRAR OF THE REGISTER OF PERSONAL AND MOVABLE REAL  
RIGHTS (QUÉBEC)**

**THE REGISTRAR OF THE ONTARIO PERSONAL PROPERTY REGISTRY**

Impleaded Parties (Registrars)

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**APPROVAL, VESTING AND ASSIGNMENT ORDER IN RESPECT OF THE ASSETS  
OF XEBEC ADSORPTION INC. AND COMPRESSED AIR INTERNATIONAL INC.**

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- [1] **CONSIDERING** the *Application for the Issuance of an Approval, Vesting and Assignment Order* (the “**Application**”) pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended (“**CCAA**”) and the exhibits thereto and the affidavit of Mr. Dimitrios Vounassis, filed in support thereof;
- [2] **CONSIDERING** the Sixth Report of the Monitor dated February 10, 2023;
- [3] **CONSIDERING** the submissions of counsel;
- [4] **CONSIDERING** the Third Amended and Restated Initial Order (the “**Third ARIO**”) issued by this Court on February 13, 2023;
- [5] **GIVEN** the provisions of the CCAA:
- [6] **CONSIDERING**, for the reasons provided concurrently to this order, that it is appropriate to issue an order approving the sale transaction (the “**Transaction**”) contemplated by the agreement entitled Asset Purchase Agreement dated February 8, 2023 (the “**Purchase Agreement**”) between Xebec Adsorption Inc. and Compressed Air International Inc. (collectively, the “**Sellers**”), and Ivys Adsorption Inc. (the “**Asset Buyer**”) and Ivys, Inc., on behalf of a corporation to be incorporated (the “**Equity Buyer**” and together with the Asset Buyer, collectively the “**Buyers**” and individually a “**Buyer**”), a copy of which was filed as **Exhibit P-5 (under seal)** to the Application, and vesting in the Buyers the Purchased Assets.

**THE COURT HEREBY:**

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

**DEFINITIONS**

- [8] **DECLARES** that, unless otherwise defined, all capitalized terms in this Order shall have the meaning ascribed thereto in the Purchase Agreement.

**SERVICE**

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

**TRANSACTION APPROVAL**

- [11] **ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Purchase Agreement by the Sellers is hereby authorized and approved *nunc pro tunc*, with such minor alterations, changes, amendments, deletions or additions thereto as may be agreed to by the Sellers and the Buyers, with the consent of the Monitor.

**EXECUTION OF DOCUMENTATION**

- [12] **AUTHORIZES** the Buyers and the Sellers to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in the Purchase Agreement and any other ancillary document which could be required or useful to give full and complete effect thereto, including the Transaction.

**AUTHORIZATION**

- [13] **ORDERS and DECLARES** that this Order shall constitute the only authorization required by the Petitioners to proceed with the Transaction and that no shareholder or regulatory approval, if applicable, shall be required in connection therewith.

**VESTING OF PURCHASED ASSETS**

- [14] **ORDERS AND DECLARES** that upon the issuance of a Monitor's Closing Certificate substantially in the form appended as **Schedule "A"** hereto (the "**Monitor's Closing Certificate**"), all rights, title and interest in and to the Purchased Assets shall vest absolutely and exclusively in and with the Buyers,

free and clear of and from any and all claims, liabilities (direct, indirect, absolute or contingent), obligations, interests, prior claims, security interests (whether contractual, statutory or otherwise), liens, charges, hypothecs, mortgages, pledges, deemed trusts, assignments, judgments, executions, writs of seizure or execution, notices of sale, options, adverse claims, levies, rights of first refusal or other pre-emptive rights in favour of third parties, restrictions on transfer of title, taxes or other claims or encumbrances, whether or not they have attached or been perfected, registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**"), including, without limiting the generality of the foregoing, all encumbrances created by order of this Court, all hypothecs, charges or security evidenced by registration, publication or filing pursuant to the Civil Code of Québec and the Personal Property Security Act of the Province of Ontario, or any other applicable legislation providing for a security interest in personal or movable property (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "B"**).

- [15] For greater certainty, **ORDERS** that all of the Encumbrances, other than those listed on Schedule "B" hereto, affecting or relating to the Purchased Assets be cancelled and discharged as against the Purchased Assets, in each case effective as of the issuance of the Monitor's Closing Certificate.
- [16] **ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Closing Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
- [17] **AUTHORIZES AND DIRECTS** the Monitor to use the net proceeds from the sale of the Purchased Assets to pay any and all outstanding invoices of the beneficiaries of the Administration Charge (as defined in the Third ARIO), provided that such payments shall not affect or reduce the quantum of the Administration Charge, but only according to the conditions and limits provided for in the Second DIP Term Sheet (as defined in the Third ARIO).
- [18] **ORDERS** that the Monitor may rely on written notice from the Sellers and the Buyers regarding the fulfillment of conditions to closing under the Purchase Agreement and shall have no liability with respect to the delivery of the Monitor's Closing Certificate.

- [19] **ORDERS** the Monitor to file with the Court a copy of the Monitor's Closing Certificate, as soon as practicable after issuance thereof.
- [20] **ORDERS AND DIRECTS** the Monitor to serve on the service list in the within CCAA proceedings, post on the Monitor's website and file with the Court a copy of the Monitor's Closing Certificate, as soon as practicable after the issuance thereof.

### **ASSIGNMENT OF CONTRACTS**

- [21] **ORDERS** and **DECLARES** that upon the issuance of the Monitor's Closing Certificate, the rights and obligations of the Sellers under the agreements listed in **Schedule "C"** hereto, as they may have been amended or restated from time to time (the "**Assumed Contract(s)**"), are automatically and irrevocably assigned as follows:
- (a) for all Assumed Contracts other than those numbered 14, 15 and 18 in **Schedule "C"** hereto, assigned to the Asset Buyer; and
  - (b) for the Assumed Contracts numbered 14, 15 and 18 in **Schedule "C"** hereto, assigned to the Equity Buyer,
- free and clear of all Claims and Encumbrances, subject to the payment of the respective Cure Costs, without any further consents or approvals of this Court.
- [22] **ORDERS** that Cure Costs in relation to an Assumed Contract and indicated in **Schedule "C"** hereto shall be remedied by the relevant assignee Buyer no later than thirty (30) days following issuance of the Monitor's Closing Certificate failing which, such Assumed Contract is not assigned to the relevant assignee Buyer.
- [23] **ORDERS** the Sellers to send by e-mail, registered mail or courier a copy of this Order to every party to an Assumed Contract.
- [24] **DECLARES** that either Buyer shall be entitled to notify the Monitor in writing, no later than thirty (30) days following the Closing Time, that it seeks the post-Closing assignment to such Buyer of the rights, benefits, obligations and interests of any of the Sellers under one or more contracts or agreements to which one or more of the Sellers are party to and which do not form part of the Assumed Contracts (the "**Proposed Post-Closing Assignment(s)**"), and each such agreement a "**Proposed Post-Closing Assigned/Assumed Contract(s)**") **AND FURTHER DECLARES** that until the expiry of such thirty (30) day period, Sellers shall not assign, disclaim or otherwise cancel any such contracts or agreements, it being understood that the Sellers can send notices of conditional disclaimer or resiliation to the counterparties to such contracts or agreements **providing that such contracts or agreements will be disclaimed or resiliated effective 30 days after Closing Date**

unless they become Post-Closing Assigned/Assumed Contracts as provided herein.

[25] **ORDERS** the Monitor, within five (5) days of the receipt from either Buyer of a notice of a Proposed Post-Closing Assignment, to review such proposed assignment, and:

- (a) If the Monitor approves the Proposed Post-Closing Assignment, to send one or more notices of the Proposed Post-Closing Assignment to the parties to the Proposed Post-Closing Assigned/Assumed Contracts substantially in the form of the draft notice of assignment attached hereto as **Schedule "D"** (the "**Notice of Assignment**"); or
- (b) If the Monitor does not approve the Proposed Post-Closing Assignment, to inform such Buyer, in writing of its decision (the "**Monitor's Notice**").

[26] **DECLARES** that:

- (a) if a party to a Proposed Post-Closing Assigned/Assumed Contract has notified the Monitor of its opposition to the Proposed Post-Closing Assignment within fifteen (15) days of the receipt of the Notice of Assignment; or
- (b) if the Monitor has issued the Monitor's Notice,

the Monitor or either Buyer shall be entitled to apply to this Court to seek the assignment of such Proposed Post-Closing Assignment Contract.

[27] **ORDERS** that, if no party to a Proposed Post-Closing Assigned/Assumed Contract has notified the Monitor of an opposition to the Proposed Post-Closing Assignment within fifteen (15) days of the receipt of the Notice of Assignment, the Monitor shall issue forthwith and file with the Court a certificate substantially in the form appended as **Schedule "E"** hereto (a "**Post-Closing Assignment Certificate**").

[28] **ORDERS** and **DECLARES** that upon the issuance of a Post-Closing Assignment Certificate by the Monitor, the rights, benefits, obligations and interests of the Sellers under the Proposed Post-Closing Assigned/Assumed Contract referenced in such Post-Closing Assignment Certificate (the "**Post-Closing Assigned/Assumed Contract(s)**") shall be automatically and irrevocably assigned to the assignee Buyer free and clear of all Claims and Encumbrances, without any further consents or approvals of this Court, subject to paragraph [30] hereof.

[29] **ORDERS** the Monitor to issue a certificate substantially in the form appended as **Schedule "F"** hereto (the "**Post-Closing Certificate**") on the earlier of:

- (a) the date on which the Monitor is advised in writing by the Buyers that no further Proposed Post-Closing Assignments are required;
  - (b) the 31st day following Closing Time, unless on that day any application referred to at paragraph [26] has not been finally determined; or
  - (c) on the first day on which all applications referred to at paragraph [26] shall have been withdrawn or finally determined, if on the 31st day following Closing Time any such application had not been finally determined.
- [30] **ORDERS** that all monetary defaults of the Sellers in relation to any Post-Closing Assigned/Assumed Contract (other than those arising by reason only of the insolvency of the Petitioners, the commencement of proceedings under the CCAA or the failure to perform non-monetary obligations) shall be remedied on or before thirty (30) days following the date of the applicable Post-Closing Assignment Certificate, or as the assignee Buyer and the relevant counterparty may agree in writing, failing which such Post-Closing Assigned/Assumed Contract will not be assigned to the assignee Buyer.
- [31] **DECLARES** that subject to the assignee Buyer's obligations relating to the monetary defaults set forth in paragraph [30], the counterparties to any Post-Closing Assigned/Assumed Contract have no right to claim or effect compensation or set-off between:
- (a) the amounts that are currently owing or which may become owing by such counterparties to the assignee Buyer in connection with the Post-Closing Assigned/Assumed Contract, as and from the effective date of the assignment; and
  - (b) any amounts owed, or allegedly owed, by the Sellers to such counterparties, whether related or not to the Post-Closing Assigned/Assumed Contract.
- [32] **ORDERS** that any anti-assignment, consent-to-assignment or any other provisions restricting or affecting the assignment by either Seller in any of the Assumed Contracts or any of the Post-Closing Assigned/Assumed Contracts shall not restrict, limit, impair, prohibit or otherwise affect the assignment of any Assumed Contracts or of any Post-Closing Assigned/Assumed Contracts provided by this Order.
- [33] **ORDERS** that the Assumed Contracts and the Post-Closing Assigned/Assumed Contracts shall be valid and binding and in full force and effect and enforceable by the assignee Buyer in accordance with their terms for the benefit of the assignee Buyer.

- [34] **ORDERS** and **DIRECTS** the Monitor to notify a copy of this Order to each of the counterparties to the Assumed Contracts and the Post-Closing Assigned/Assumed Contracts, if any.
- [35] **AUTHORIZES** the Petitioners, the assignee Buyer and the Monitor to perform all acts, sign all documents and take any other action that could be required or useful to give full effect to the assignment of the Assumed Contracts and the Post-Closing Assigned/Assumed Contracts to the assignee Buyer in accordance with this Order.

### **CANCELLATION OF SECURITY REGISTRATIONS**

- [36] **ORDERS** the *Quebec Personal and Movable Real Rights Registrar* to strike and discharge any publication or registration, as the case may be, in connection with the Purchased Assets, in order to allow the transfer to the Buyers of the Purchased Assets free and clear of such registrations.
- [37] **ORDERS** the Quebec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Certificate, to reduce the scope and effect of the following Encumbrances, namely:

<b>Nature of Security Registration</b>	<b>Publication No. (Registration)</b>	<b>Date of Publication</b>	<b>Secured Party</b>
Conventional hypothec without delivery	21-0793644-0001	2021-07-20	Export Development Canada
Conventional hypothec without delivery	21-0144140-0001	2021-02-19	National Bank of Canada
Conventional hypothec without delivery	20-0119389-0001	2020-02-05	National Bank of Canada

in order that the foregoing Encumbrances no longer hypothecate, charge, encumber or otherwise affect any or all of the Purchased Assets, namely all of the Sellers' property, with the sole exclusion of the following (capitalized terms in this paragraph have the meaning ascribed to them in the Purchase Agreement):

- (1) *Cash and Cash Equivalents* – all Cash and Cash Equivalents;
- (2) *Corporate Records* – original Tax records and books and records pertaining thereto, minute books, share ledgers, organizational documents, corporate seals, taxpayer and other identification numbers and other documents, in each case, relating to the organization, maintenance and existence of each Seller as a Person; provided that the Buyers may take copies of all Tax records and



books and records pertaining to such records (as redacted, if applicable) to the extent necessary or useful for the carrying on of the Acquired Business after Closing, including the filing of any Tax return to the extent permitted under Applicable Law;

- (3) *Excluded Contracts* – all Contracts of the Sellers that are not Assumed Contracts or Post-Closing Assigned/Assumed Contracts;
- (4) *Claims in connection with Excluded Contracts* – all rights and Claims arising out of Excluded Contracts, except for Accounts Receivable relating thereto, provided that such Accounts Receivable appear on the Aged Receivables Report on the Business Day prior to Closing;
- (5) *Collateral* – all letters of credit, cash or cash equivalents of the Sellers granted by the Sellers as collateral to secure outstanding letters of credit in respect of any Excluded Liability or Excluded Asset;
- (6) *Rights under Agreements* – all of the Sellers' rights under the Purchase Agreement; the NDA; any confidentiality, non-disclosure or similar agreements entered into in connection with the CCAA Proceedings or the SISF; the DIP Facility, the EDC Credit Agreement and the NBC Credit Agreement; the Excluded Contracts; the Closing Documents and the transactions contemplated by hereby and thereby;
- (7) *Director and Officer Insurance Policies* – all rights of the Sellers and the directors and officers of the Sellers under any director and officer insurance policies including any proceeds received or receivable by such Persons thereunder;
- (8) *Licenses and Registrations* – extra-provincial, sales, excise or other Permits (other than Transferred Permits), licenses or registrations issued to or held by any of the Sellers, whether relating to the Acquired Business or otherwise to the extent not transferable;
- (9) *Tax Refunds* – the benefit of the Sellers to any refundable Taxes payable or paid by a Seller, net of any amounts withheld by any Governmental Authority, having jurisdiction over the assessment, determination, collection, or other imposition of any Tax, and the benefit of the Sellers to any claim or right of a Seller to any refund, rebate, or credit of Taxes;
- (10) *Avoidance Claims* – all rights and Claims against any Person for any liability of any kind based on or arising out of the occurrence of any

fraudulent conveyance, settlement, reviewable transaction, transfer at undervalue, fraudulent preference or similar claim;

- (11) *Plan Assets* – all trust funds or other entities holding assets (or, in the case of a dedicated bank account held by the Sellers, the assets of such account) related to any Employee Plan which is not part of the Assumed Employee Plans;
- (12) *Certain Securities* – all Equity Interests of the Seller Subsidiaries other than the Transferred Equity Interests, which for greater certainty shall include all Equity Interests of XEBEC ITALY S.r.l.;
- (13) *Ordinary Course Assets* – any asset of the Sellers that would otherwise constitute a Purchased Asset but for the fact that it is conveyed, leased or otherwise disposed of in the ordinary course of business in compliance with Section 7.2 of the Purchase Agreement or as obsolete during the period beginning on the date of the Purchase Agreement and ending on the Closing Date;
- (14) *Intercompany Accounts Receivable* – any debts due or accruing due prior to the Closing Time from any shareholder, director, or affiliate of the Sellers other than such amounts owing by Xebec Asia;
- (15) *London RNG Receivables* – any London RNG Receivables, it being understood that such London RNG Receivables shall be a Purchased Asset in the event the London RNG Contract becomes a Post-Closing Assigned/Assumed Contract; and
- (16) *Employee Records* – any personnel and employment records pertaining to any Employee who is not an Assumed Employee.

[38] **ORDERS** that upon the issuance of the Monitor's Closing Certificate, any of the Sellers, either Buyer or the Monitor shall be authorized to take all such steps as may be necessary to effect the discharge of all Encumbrances registered against the Purchased Assets (including filing such financing change statements in the *Ontario Personal Property Registry* ("**OPPR**") as may be necessary or any further application to this Court) or, to effect the discharge of any registration filed against the Sellers in the OPPR, provided that the Sellers, the Buyers and the Monitor shall not be authorized to effect any discharge that would have the effect of releasing any Encumbrances against any property other than the Purchased Assets.

**PROTECTION OF PERSONAL INFORMATION**

[39] **ORDERS** that, pursuant to sub-section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5 or any similar provision of any applicable provincial legislation (collectively, the “**Applicable Privacy Laws**”), the Petitioners and the Monitor are authorized to disclose and transfer to the Buyers the personal information in the custody or control of the Petitioners set out in the Purchase Agreement (the “**Disclosed Information**”). The Buyers shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Petitioners.

[40] **ORDERS** that the Buyers shall:

- (a) maintain and protect the Disclosed Information with security safeguards appropriate to the Disclosed information and as may otherwise be required by Applicable Privacy Laws;
- (b) use and disclose the Disclosed Information for the purposes for which the Disclosed Information was collected by the Petitioners and as may otherwise be permitted by Applicable Privacy Laws; and
- (c) give effect to any withdrawals of consent of the individuals to whom the Disclosed Information relates.

**VALIDITY OF THE TRANSACTION**

[41] **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 vesting of Purchased Assets contemplated in this Order, as well as the execution of the Purchase Agreement and the assignment of the Assumed Contracts and the Post-Closing Assigned/Assumed Contracts authorized by this Order, and the payments, distributions and disbursements 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 Buyers, or the Monitor.

### **THE MONITOR**

- [42] **DECLARES** that the Monitor shall incur no liability as a result of acting in accordance with this Order, other than any liability arising out of or in connection with the gross negligence or wilful misconduct of the Monitor.
- [43] **DECLARES** that no action lies against the Monitor by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Monitor or belonging to the same group as the Monitor shall benefit from the protection arising under the present paragraph.
- [44] **DECLARES** that nothing contained herein shall require the Monitor to occupy or to take control, or to otherwise manage all or any part of the assets of the Petitioners. The Monitor shall not, as a result of this Order, be deemed to be in possession of any assets of the Petitioners within the meaning of environmental legislation, the whole pursuant to the terms of the CCAA.
- [45] **ORDERS AND DECLARES** that no provision of this Order is intended to appoint the Monitor as an officer, director or employee of any of the Petitioners, de facto or otherwise, or to create a fiduciary duty to any party, including any creditor or shareholder of the Petitioners. Additionally, nothing in this Order shall constitute or be deemed to constitute the Monitor as a receiver, assignee, liquidator, or receiver and manager of any of the Petitioners and any distribution made to the creditors of the Petitioners will be deemed to have been made by the Petitioners.

### **SEALING**

- [46] **ORDERS** that Exhibits P-5 and P-5A to the Application shall be filed under seal and kept confidential until further order of this Court.

### **GENERAL**

- [47] **ORDERS** that all professional fees and disbursements by the Monitor and its counsel and other professionals, and the Debtor and its counsel and other professionals, incurred or envisaged by this Order will be for the account of the Debtors, to the exclusion of the Buyers.
- [48] **DECLARES** that this Order shall have full force and effect in all provinces and territories of Canada.

- [49] **DECLARES** that the Petitioners or the Monitor may, from time to time, apply to this Court for directions concerning the exercise of their respective powers, duties and rights hereunder or in respect of the proper execution of this Order on notice only to each other and the Buyers.
- [50] **DECLARES** that the Petitioners and the Monitor shall be entitled to seek leave to vary this Order upon such terms and such notice as this Court deems just.
- [51] **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 including the People's Republic of China, 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 hereby 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 in any foreign proceeding, to assist the Petitioners, the Monitor and their respective agents in carrying out this Order.
- [52] **ORDERS** provisional execution of this Order notwithstanding any appeal and without security.
- [53] **THE WHOLE** without costs.



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Christian Immer, JCS

MTRE. SANDRA ABITAN  
MTRE. JULIEN MORISSETTE  
MTRE. ILIA KRAVTSOV  
MTRE. SOPHIE COURVILLE  
(OSLER HOSKIN & HARCOURT LLP)  
Attorneys for the Petitioners

Hearing date: **February 16, 2023**

**SCHEDULE A**  
**DRAFT CERTIFICATE OF THE MONITOR**

**CANADA**

**PROVINCE OF QUÉBEC**  
**DISTRICT OF MONTRÉAL**

**SUPERIOR COURT**  
(Commercial Division)

(Sitting as a court designated pursuant to  
the *Companies' Creditors Arrangement Act*,  
RSC 1985, c. C-36)

No.: 500-11-061483-224

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**IN THE MATTER OF THE COMPROMISE  
OR ARRANGEMENT OF:**

**XEBEC ADSORPTION INC.**  
**XEBEC RNG HOLDINGS INC.**  
**APPLIED COMPRESSION SYSTEMS  
LTD.**  
**COMPRESSED AIR INTERNATIONAL  
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**THE TITUS COMPANY**  
**NORTEKBELAIR CORPORATION**  
**XBC FLOW SERVICES - WISCONSIN INC.**  
**CALIFORNIA COMPRESSION, LLC**  
**XEBEC SYSTEMS USA, LLC**

Debtor/Petitioners

-and-

**DELOITTE RESTRUCTURING INC.**

Monitor

## CERTIFICATE OF THE MONITOR

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### **RECITALS:**

**WHEREAS** on September 29, 2022, the Debtors/Petitioners Xebec Adsorption Inc. & Al. filed an Application pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended ("**CCAA**") and Deloitte Restructuring Inc. was appointed as monitor thereto (the "**Monitor**").

**WHEREAS** on February 1, 2023, the Court issued an Order (the "**Approval, Vesting and Assignment Order**") authorizing and approving, *inter alia*, the execution of a Asset Purchase Agreement by and among Xebec Adsorption Inc. and Compressed Air International Inc. (collectively, the "**Sellers**") and Ivys Adsorption Inc. (the "**Asset Buyer**") and Ivys, Inc., on behalf of a corporation to be incorporated (the "**Equity Buyer**" and together with the Asset Buyer, collectively the "**Buyers**"), a copy of which was filed in the Court record (the "**Purchase Agreement**"), and into all the transactions contemplated therein (the "**Transaction**") with such non-material alterations, changes, amendments, deletions or additions thereto, as may be agreed to with the consent of the Monitor.

**WHEREAS** the Approval, Vesting and Assignment Order contemplates the issuance of this Certificate of the Monitor once (a) the Purchase Agreement has been executed and delivered; and (b) the Purchase Price (as defined in the Purchase Agreement) has been paid by the Buyers to the Sellers; and (c) all the conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

### **THE MONITOR CERTIFIES THAT IT HAS BEEN ADVISED BY THE SELLERS AND THE BUYERS AS TO THE FOLLOWING:**

- (a) the Purchase Agreement has been executed and delivered;
- (b) the Purchase Price (as defined in the Purchase Agreement) payable upon the closing of the Transaction and all applicable taxes have been paid; and
- (c) all conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

This Certificate was issued by the Monitor on \_\_\_\_\_ [DATE].

**Deloitte Restructuring Inc.**, in its capacity as Monitor  
to the Petitioners, and not in its personal capacity.

Per: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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## **SCHEDULE B**

### **PERMITTED ENCUMBRANCES**

1. Encumbrances associated with, and financing statements evidencing, the rights of equipment lessors under any Personal Property Leases.
2. Encumbrances affecting a landlord's, lessor's, licensor's or sublandlord's, as applicable, interest in any applicable Real Property Leases, including for greater certainty any registered servitudes or rights of way by Hydro-Québec or Bell Canada to install any circuits, poles and necessary equipment.
3. Notices registered on title in respect of the Real Property Leases.
4. Reservations, limitations, provisos and conditions, if any, expressed in any original grants of land from the Crown and any statutory limitations, exceptions, reservations and qualifications.
5. Any rights of expropriation, access or use or any other similar rights conferred or reserved by Applicable Law.
6. Applicable municipal by-laws, development agreements, subdivision agreements, site plan agreements, other agreements, building and other restrictions, easements, servitudes, rights of way and licences.
7. Minor survey exceptions, minor encumbrances, easements or reservations of, or rights of other for, rights-of-way, sewers, electric lines, telephone lines and other similar purposes, or zoning or similar restriction as to the use of any applicable Real Property Leases.
8. Encumbrances permitted in writing by the Buyers.

**SCHEDULE C**  
**ASSUMED CONTRACTS AND CURE COSTS**

	<b>Seller</b>	<b>Counterparty</b>	<b>Type of Contract or Service</b>	<b>Contract Name or Number</b>	<b>Contract Date</b>	<b>Cure Costs</b>
<b>1.</b>	Xebec <sup>1</sup>	Konica Minolta	Personal Property Lease	Lease for 6 printers, including a Bizhub C450I 45 PPM Color MFP Printer and a PC-416 Paper Feed Cabinet	May 28, 2020	Nil
<b>2.</b>	CAI <sup>2</sup>	Colony Ford-Lincoln Sales Inc.	Personal Property Lease	Lease for Ford Edge SEL 2022 (Serial #2FMPK4J94NBA07760)	April 1, 2022	Nil
<b>3.</b>	CAI	HumberviewGroup Leasing Inc.	Personal Property Lease	Lease for GMC Sierra 1500 2018 (Serial #1GTR1LEH4JZ123107)	March 1, 2018	Nil
<b>4.</b>	CAI	HumberviewGroup Leasing Inc.	Personal Property Lease	Lease for GMC Sierra 1500 2015 (Serial #1GTM1TEHXFZ260865)	December 1, 2018	Nil
<b>5.</b>	CAI	HumberviewGroup Leasing Inc.	Personal Property Lease	Lease for Chevrolet Silverado 1500 WT 2018 (Serial #1GCRNEH4JZ307209)	August 1, 2018	Nil

<sup>1</sup> Xebec Adsorption Inc.

<sup>2</sup> Compressed Air International Inc.

<b>6.</b>	CAI	HumberviewGroup Leasing Inc.	Personal Property Lease	Lease for Chevrolet Silverado 1500 LD WT 2019 (Serial#2GCRNEC8K1163405)	April 1, 2019	Nil
<b>7.</b>	CAI	HumberviewGroup Leasing Inc.	Personal Property Lease	Lease for Chevrolet Silverado (Serial # 2GCRNEC8K1129836)	November 1, 2018	Nil
<b>8.</b>	Xebec	Cominar Real Estate Investment Trust	Real Property Lease	Lease relating to premises located at 730 Industriel Blvd, Blainville, Québec	October 1, 2011	Nil
<b>9.</b>	Xebec	Alliance Hepyx Inc.	Real Property Lease	Lease relating to premises located at 1120 Michèle-Bohec Blvd, Blainville, Québec	February 3, 2022	\$15 093.36
<b>10.</b>	CAI	N.E. Locicero Holdings Inc.	Real Property Lease	Lease relating to premises located at 60 Haist Road, Unit 1, Woodbridge, Ontario	July 1, 2020	Nil
<b>11.</b>	CAI	Newlife and Hall	Verbal Lease Agreement	Lease relating to premises located at Premises located at 5477 Highway #6 North, Guelph, Ontario		Nil
<b>12.</b>	Xebec	Air Products Chemicals Inc.	Patent License	Patent License	March 16, 2012	Nil
<b>13.</b>	Xebec	Enbridge Gas Inc.	Operating and Maintenance Agreement	Operating and Maintenance Agreement	June 15, 2020	Nil

<b>14.</b>	Xebec	Shanghai Shenergy Energy Innovation & Development Co., Ltd., and Shanghai Liuhuan Investment Co., Ltd.	Other	Articles of Association for the formation of Xebec Adsorption (Shanghai) Co. Ltd.	October 15, 2020	Nil
<b>15.</b>	Xebec	Shanghai Chengyi New Energy Venture Capital Co., Ltd., Shanghai Zhiyi Enterprise Management Consulting Co., Ltd. and Shanghai Liuhuan Investment Co., Ltd.	Other	Investment and Operation Agreement	August 2015	Nil
<b>16.</b>	Xebec	Air Liquide Advanced Technology US	Master Purchase Agreement	Master Purchase Agreement for Goods and Services	January 21, 2022	Nil
<b>17.</b>	Xebec	NextWatts, Inc. (d/b/a CarbonQuest)	Development and Supply Agreement	Development and Supply Agreement	August 8, 2020	Nil
<b>18.</b>	Xebec	Shanghai Shenergy Energy Innovation & Development Co., Ltd., and Shanghai Liuhuan Investment Co., Ltd.	Other	Shareholders' Agreement	October 15, 2020	Nil

## SCHEDULE D

### DRAFT NOTICE OF A PROPOSED POST-CLOSING ASSIGNMENT

Date: ●

To: ● (“you”)

**Re: Superior Court, District of Montreal, No. 500-11-061483-224**

We act as the Monitor 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 and Xebec Systems USA, LLC (collectively, the “**Debtors**”) under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”).

We refer to:

- the attached Approval, Vesting and Assignment Order dated ● rendered by the Superior Court of Québec, District of Montreal in Court File No. 500-11-061483-224 (the “**Order**”), which approved the sale transaction between Xebec Adsorption Inc. and Compressed Air International Inc. (collectively, the “**Sellers**”), and Ivys Adsorption Inc. (the “**Asset Buyer**”) and Ivys, Inc., on behalf of a corporation to be incorporated (the “**Equity Buyer**”) and together with the Asset Buyer, collectively the “**Buyers**”); and
- the following agreement(s) (the “**Agreement**”) to which you and the Sellers are parties: ●.

We have been notified by ●, one of the Buyers, that it seeks the post-closing assignment of the rights, benefits, obligations and interests of the Sellers under the Agreement to such Buyer, and we have approved such assignment as the Monitor of the Debtors (the “**Proposed Post-Closing Assignment**”).

If you oppose the Proposed Post-Closing Assignment, you must inform the Monitor in writing of your grounds for opposition at the latest 15 days after the receipt of this notice, failing which the rights, benefits, obligations and interests of the Sellers under the

Agreement shall be automatically and irrevocably assigned to ●, without any further consents or approvals.

If you agree with the Proposed Post-Closing Assignment you have nothing to do. The rights, benefits, obligations and interests of the Sellers under the Agreement will be automatically and irrevocably assigned to ● after 15 days of the receipt of this notice.

More information can be obtained on the restructuring of the Debtors at: [www.insolvencies.deloitte.ca/Xebec](http://www.insolvencies.deloitte.ca/Xebec).

Deloitte Restructuring Inc.

**SCHEDULE E**  
**DRAFT POST-CLOSING ASSIGNMENT CERTIFICATE**

**CANADA**

**PROVINCE OF QUÉBEC**  
**DISTRICT OF MONTRÉAL**

**SUPERIOR COURT**  
(Commercial Division)

(Sitting as a court designated pursuant to  
the *Companies' Creditors Arrangement Act*,  
RSC 1985, c. C-36)

No.: 500-11-061483-224

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**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**

Debtor/Petitioners

-and-

**DELOITTE RESTRUCTURING INC.**

Monitor

## POST-CLOSING ASSIGNMENT CERTIFICATE

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### RECITALS:

**WHEREAS** on September 29, 2022, the Debtors/Petitioners Xebec Adsorption Inc. & Al. filed an Application pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended ("**CCAA**") and Deloitte Restructuring Inc. was appointed as monitor thereto (the "**Monitor**").

**WHEREAS** on ●, 2023, the Court issued an Order (the "**Approval, Vesting and Assignment Order**") authorizing and approving, *inter alia*, the execution of an Asset Purchase Agreement by and among Xebec Adsorption Inc. and Compressed Air International Inc. (collectively, the "**Sellers**") and Ivys Adsorption Inc. (the "**Asset Buyer**") and Ivys, Inc., on behalf of a corporation to be incorporated (the "**Equity Buyer**" and together with the Asset Buyer, collectively the "**Buyers**" and individually a "**Buyer**"), a copy of which was filed in the Court record (the "**Purchase Agreement**"), and into all the transactions contemplated therein (the "**Transaction**") with such non-material alterations, changes, amendments, deletions or additions thereto, as may be agreed to with the consent of the Monitor.

**WHEREAS** the Approval, Vesting and Assignment Order contemplates the issuance and filing by the Monitor of this Post-Closing Assignment Certificate.

Unless otherwise defined, all capitalized terms used herein shall have the meanings ascribed to them in the Approval, Vesting and Assignment Order:

### **THE MONITOR CERTIFIES THE FOLLOWING:**

- (a) The Monitor has received a notice in writing from ●, one of the Buyers, within 30 days of Closing Time, that it seeks the post-closing assignment to such Buyer of the rights, benefits, obligations and interests of the Sellers under the following Agreements to which one or more of the Sellers are party to: ● (the "**Proposed Post-Closing Assignment**" and the "**Proposed Post-Closing Assigned/Retained Contracts**").
- (b) The Monitor has reviewed and approved the Proposed Post-Closing Assignment.
- (c) The Monitor has sent one or more Notices of Assignment to the parties to the Proposed Post-Closing Assigned/Retained Contracts.
- (d) No party to the Proposed Post-Closing Assigned/Retained Contracts has notified it of an opposition to the Proposed Post-Closing Assignment within 15 days of the receipt of the Notice of Assignment.

This Post-Closing Assignment Certificate was issued by the Monitor at \_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].



**Deloitte Restructuring Inc.**, in its capacity as Monitor  
to the Petitioners, and not in its personal capacity.

Per: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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**SCHEDULE F**  
**DRAFT POST-CLOSING CERTIFICATE**

**CANADA**

**PROVINCE OF QUÉBEC**  
**DISTRICT OF MONTRÉAL**

**SUPERIOR COURT**  
(Commercial Division)

(Sitting as a court designated pursuant to  
the *Companies' Creditors Arrangement Act*,  
RSC 1985, c. C-36)

No.: 500-11-061483-224

---

**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**

Debtor/Petitioners

-and-

**DELOITTE RESTRUCTURING INC.**

Monitor

## POST-CLOSING CERTIFICATE

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### RECITALS:

**WHEREAS** on September 29, 2022, the Debtors/Petitioners Xebec Adsorption Inc. & Al. filed an Application pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended ("**CCAA**") and Deloitte Restructuring Inc. was appointed as monitor thereto (the "**Monitor**").

**WHEREAS** on ●, 2023, the Court issued an Order (the "**Approval, Vesting and Assignment Order**") authorizing and approving, *inter alia*, the execution of an Asset Purchase Agreement by and among Xebec Adsorption Inc. and Compressed Air International Inc. (collectively, the "**Sellers**") and Ivys Adsorption Inc. (the "**Asset Buyer**") and Ivys, Inc., on behalf of a corporation to be incorporated (the "**Equity Buyer**" and, together with the Asset Buyer, collectively the "**Buyers**"), a copy of which was filed in the Court record (the "**Purchase Agreement**"), and into all the transactions contemplated therein (the "**Transaction**") with such non-material alterations, changes, amendments, deletions or additions thereto, as may be agreed to with the consent of the Monitor.

**WHEREAS** the Approval, Vesting and Assignment Order contemplates the issuance and filing by the Monitor of this Post-Closing Certificate.

Unless otherwise defined, all capitalized terms used herein shall have the meanings ascribed to them in the Approval, Vesting and Assignment Order.

### **THE MONITOR ISSUES THE POST-CLOSING CERTIFICATE PURSUANT TO THE APPROVAL, VESTING AND ASSIGNMENT ORDER**

This Post-Closing Certificate was issued by the Monitor at \_\_\_\_ **[TIME]** on \_\_\_\_  
**[DATE]**.

**Deloitte Restructuring Inc.**, in its capacity as Monitor  
to the Petitioners, and not in its personal capacity.

Per: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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