

SUPERIOR COURT

(Commercial Division)

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

**No. 500-11-064800-242
DATE: January 24, 2025**

PRESIDING : THE HONOURABLE CÉLINE LEGENDRE, J.S.C.

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF:

EARTH ALIVE CLEAN TECHNOLOGIES INC.

Debtor

-and-

RAYMOND CHABOT INC.

Trustee

-and-

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

Mis-en-Cause

APPROVAL AND REVERSE VESTING ORDER

- [1] **ON READING** Earth Alive Clean Technologies Inc.'s ("**Earth Alive**" or the "**Debtor**") *Application for the Issuance of an Approval and Reverse Vesting Order and for an Extension of the Time to File a Proposal* (the "**Application**"), the affidavit and the exhibits in support thereof, including the *Report of the Trustee on the Debtor's Business and Financial Affairs* (the "**Report**") of Raymond Chabot Inc. (the "**Trustee**"), acting as Trustee to the Notice of Intention (the "**NOI**") of the Debtor.
- [2] **CONSIDERING** the notification of the Application.
- [3] **CONSIDERING** the submissions of counsel present at the hearing on the Application and the testimony of the Trustee's representative.
- [4] **CONSIDERING** (i) the NOI filed by Debtor on October 22, 2024, (ii) the order rendered by the registrar of this Court on November 1, 2024 (the "**First Order**") *inter alia*, approving a sale and investment solicitation process (the "**SISP**") in respect of the Debtor, as well as (iii) the order rendered by the registrar of this Court on December 12, 2024 extending the time period within which the Debtor may file a proposal under the BIA to January 30, 2025.
- [5] **GIVEN** the provisions of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "**BIA**").
- [6] **GIVEN** that it is appropriate to issue an order approving, *inter alia*:
- (a) the subscription, transfer of assets and other transactions contemplated in the Subscription Agreement (the "**Subscription Agreement**") entered into on January 17, 2025, between the Debtor and 9530-8086 Québec Inc. (the "**Investor**"), a copy of which was communicated as **Exhibit R-2** in support of the Application and is attached as **Schedule "A"** to this Order, forming part hereof, and providing, *inter alia*, for the vesting of all the Excluded Assets and Excluded Contracts (as such terms are defined in the Subscription Agreement) in 9532-4497 Québec Inc. ("**ResidualCo 1**") and for the vesting of all the Excluded Liabilities (as such term is defined in the Subscription Agreement) in 9532-8241 Québec Inc. ("**ResidualCo 2**") and, together with ResidualCo 1, the "**ResidualCos**"; and
 - (b) the reorganization steps contemplated in the Subscription Agreement, including those listed in paragraphs [15] and [16] of this Order (the "**Reorganization Steps**");
- (the transaction contemplated in the Subscription Agreement together with the Reorganization Steps are collectively referred to as the "**Transactions**").

WHEREFORE, THE COURT:

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

- [8] **ORDERS** that, unless otherwise indicated or defined herein, capitalized terms used in this order (the “**Order**”) shall have the meanings ascribed to them in the Subscription Agreement.

NOTIFICATION

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

EXTENSION OF THE TIME TO FILE A PROPOSAL

- [11] **DECLARES** that the time period within which the Debtor may file a proposal under the BIA is hereby extended to March 10, 2025.

APPROVAL OF THE TRANSACTION

- [12] **ORDERS** and **DECLARES** that the Transaction is hereby approved, and the execution of the Subscription Agreement by the Debtor is hereby authorized, approved and ratified, with such alterations, changes, amendments, deletions or additions thereto as may be agreed to by the parties thereto, but only with the consent of the Trustee provided that such alterations, changes, amendments, deletions or additions do not reduce the consideration which the applicable stakeholders of the Debtor will benefit from as a result of the Transaction other than the potential removal of the Interlube Purchase Agreement and the Consulting Agreements as Retained Contracts as such terms are defined, and as such removal right is specifically provided, under the terms of the Subscription Agreement.
- [13] **AUTHORIZES** the Trustee, the Debtor and the Investor 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 Subscription Agreement and any other ancillary document which could be required or useful to give full and complete effect thereto.
- [14] **ORDERS** and **DECLARES** that this Order shall constitute the only authorization required by the Debtor to proceed with the Transaction and that no shareholder or regulatory approval shall be required in connection therewith.

REORGANIZATION STEPS

- [15] **AUTHORIZES** the Debtor, the Investor, the Trustee, and the ResidualCos, to implement and complete the Reorganization Steps in the manner, order and sequence specified in the Subscription Agreement with such alterations,

changes, amendments, deletions or additions thereto by the Investor, with the prior consent of the Debtor and the Trustee.

[16] **AUTHORIZES** the Debtor and the Investor to implement and complete the Reorganization Steps, in the sequence described in the Subscription Agreement, including namely:

- (a) The Debtor shall incorporate and organize the ResidualCos;
- (b) The Debtor shall donate the issued and outstanding share(s) in the ResidualCos registered in its name in favour of the applicable ResidualCo, for cancellation without consideration, and (ii) the officers and directors of each ResidualCo then serving shall resign (and shall be deemed to have resigned);
- (c) The Debtor shall be deemed to transfer to ResidualCo 1 the Excluded Assets and the Excluded Contracts, pursuant to this Order, and ResidualCo 1 shall issue the Excluded Asset Promissory Note to the Debtor in consideration of such transfer, and (ii) the Debtor shall be deemed to transfer to ResidualCo 2 the Excluded Liabilities, pursuant to this Order, and the Debtor shall issue the Excluded Liabilities Promissory Note to ResidualCo 2 in consideration of such transfer;
- (d) All Existing Equity (as defined below) as well as any agreement, Contract, plan, indenture, deed, certificate, subscription rights, conversion rights, pre-emptive rights, options (including stock option or share purchase or equivalent plans), or other documents or instruments governing and/or having been created or granted in connection with the share capital of the Debtor shall be deemed terminated and cancelled for no consideration;
- (e) The Articles of Reorganization shall be filed;
- (f) Concurrently with the previous step, the Debtor shall issue the Subscribed Shares to the Investor; and
- (g) At the discretion of the Investor, the Investor shall be amalgamated with the Debtor.

VESTING OF SUBSCRIBED SHARES AND TRANSFER OF EXCLUDED ASSETS, EXCLUDED CONTRACTS AND EXCLUDED LIABILITIES

[17] **ORDERS** and **DECLARES** that upon the issuance of a Trustee's certificate substantially in the form appended as **Schedule "B"** hereto (the "**Certificate**"):

- (a) All rights, title and interest in and to the Subscribed Shares shall vest absolutely and exclusively in and with the Investor, 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, 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 “**Encumbrances**”) including without limiting the generality of the foregoing: (i) any encumbrances or charges created by the First Order; (ii) all charges, security interests or claims evidenced by registrations pursuant to *Civil Code of Québec* on movable or immovable property or any other personal property registry system; and, **ORDERS** that all of the Encumbrances affecting or relating to the Subscribed Shares be cancelled and discharged as against the Subscribed Shares, in each case effective as of the time and date of the Certificate;

- (b) All rights, title and interests of the Debtor in the Excluded Assets shall vest absolutely and exclusively in ResidualCo 1 and all Encumbrances (as defined above) that were attached to the Excluded Assets immediately prior to the transfer of the Excluded Assets to ResidualCo 1 shall continue to attach to such Excluded Assets with the same nature and priority as they had immediately prior to the transfer of the Excluded Assets to ResidualCo 1;
- (c) All Excluded Contracts shall be transferred to, assumed by and vest absolutely and exclusively in ResidualCo 1, and all Encumbrances that were attached to the Excluded Contracts immediately prior to the transfer of the Excluded Contracts to ResidualCo 1 shall continue to attach to such Excluded Contracts with the same nature and priority as they had immediately prior to the transfer of the Excluded Assets to ResidualCo 1;
- (d) All Excluded Liabilities shall be transferred to, assumed by and vest absolutely and exclusively in ResidualCo 2, such that all Excluded Liabilities shall become obligations of the ResidualCo 2 and shall no longer be obligations of the Debtor, and the Debtor shall be forever released and discharged from such Excluded Liabilities;
- (e) Any capital share (including the issued and outstanding common shares in the capital of the Debtor), capital stock, partnership, membership, joint venture, warrant, option or other ownership or equity interest, participation or securities (whether convertible, non-convertible, voting or nonvoting, whether preferred, common or otherwise, and including share appreciation, contingent interest or similar rights) in the capital of the Debtor (collectively, “**Existing Equity**”), as well as any agreement, contract, plan, indenture, deed, certificate, subscription rights, conversion rights, pre-emptive rights, warrants, options (including stock options or share purchase or equivalent plans), or other documents or instruments

governing and/or having been created or granted in connection with the share capital of the Debtor, that were existing prior to the issuance of the Certificate, shall be deemed terminated and cancelled without consideration;

- (f) All rights, title and interest in and to the Retained Assets shall remain in and with the Debtor, free and clear of and from any Encumbrances, including without limiting the generality of the foregoing (i) any encumbrances or charges created by the First Order; (ii) all charges, security interests or claims evidenced by registrations pursuant to *Civil Code of Québec* on movable or immovable property, or any other personal property registry system but excluding, however, the Permitted Encumbrances; and, **ORDERS** that all of the Encumbrances affecting or relating to the Retained Assets, other than the Permitted Encumbrances, be cancelled and discharged as against the Retained Assets, in each case effective as of the applicable time and date of the Certificate;
- (g) The Assumed Liabilities including, without limitation, their amount and secured versus unsecured status, shall not be affected or altered as a result of the Transaction or steps and actions taken in accordance with the terms of the Subscription Agreement;
- (h) The commencement, prosecution, continuation or assertion, whether directly, indirectly, derivatively or otherwise, by any person of any demand, claim, action, counterclaim, cross-claim, suit, arbitration, grievance, judgement or other right or remedy, including set-off (each, a “**Claim**”) against the Debtor in connection with the Excluded Assets, the Excluded Contracts and the Excluded Liabilities, whether before a court, administrative tribunal, arbitrator, other dispute resolver or otherwise, and whether such Claims are direct, indirect, absolute or contingent, exist today or arise in the future, shall be permanently restrained and enjoined, and the Debtor and the Investor shall be released from all Claims, obligations or other Encumbrances relating to the Excluded Assets, Excluded Contracts and Excluded Liabilities except in regards to any potential right of set-off of the Federal Crown and the Provincial Crown. For greater certainty, any person shall be forever barred from initiating or pursuing any Claim against the Debtor, the Investor, the Subscribed Shares or the Retained Assets in any manner whatsoever, in connection with the Excluded Assets, the Excluded Contracts, the Excluded Liabilities or in connection with any other debts, claims or obligations discharged pursuant to this Order; and
- (i) All Retained Contracts shall remain in full force and effect and all co-contracting parties to the Retained Contracts shall be deemed to have waived all rights and remedies resulting from any change of control of the Debtor, any actual or potential default caused by the insolvency of the Debtor or the filing by the latter of an NOI or any direct or indirect

consequence of the foregoing or of this Order or any other circumstance that existed or event that occurred on or prior to the Closing Date.

[18] **DECLARES** that the present Order does not prevent the Canada Revenue Agency (or any other federal entity, department or agency that has a right of set-off with Canada Revenue Agency) (the “**Federal Crown**”) and the Agence du revenu du Québec (or any other provincial entity, department or agency that has a right of set-off with Agence du revenu du Québec) (the “**Provincial Crown**”), to set-off or compensate, if applicable:

- (a) on one hand, any claim of the Federal Crown or the Provincial Crown against the Applicant, and, on the other hand, any amount owed to such Applicant by such Federal Crown or Provincial Crown, provided that the aforementioned claims and amount owed shall both be pertaining to periods prior to October 22, 2024 (the “**Filing Date**”); and
- (b) on one hand, any claim of any of the Federal Crown or the Provincial Crown against the Applicant, and, on the other hand, any amount owed to such Applicant by such Federal Crown or Provincial Crown, provided that the aforementioned claims and amount owed shall both be pertaining to periods between the Filing Date and the Effective Time.

[19] **ORDERS** and **DIRECTS** the Trustee to issue the Certificate and to file it with the Court as soon as practicable upon the occurrence of the closing of the Transaction.

PROTECTION OF PERSONAL INFORMATION

[20] **ORDERS** that, pursuant to sub-section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* or any similar provision of any applicable provincial legislation, the Debtor is authorized and permitted to disclose and transfer to the Investor all human resources and payroll information in the Debtor’s records pertaining to the Debtor’s past and current employees. The Investor 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 Debtor.

VALIDITY OF THE TRANSACTION

[21] **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 the provisions of any federal or provincial legislation; and

- (c) the deemed assignment in bankruptcy of ResidualCo 1 and/or ResidualCo 2;

the execution of the Subscription Agreement and implementation of the Transaction, including the issuance of the Subscribed Shares, the transfer of the Excluded Assets, the Excluded Contracts and the Excluded Liabilities contemplated in 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 Debtor, the Investor, the Trustee and the ResidualCos.

NOI PROCEEDINGS OF THE DEBTOR AND DEEMED ASSIGNMENT IN BANKRUPTCY OF RESIDUALCO. 1 AND RESIDUALCO. 2

- [22] **ORDERS** and **DECLARES** that effective upon the issuance of the Certificate, the NOI filed on October 22, 2024 by the Debtor pursuant to the BIA shall be deemed to be withdrawn and cancelled for all purposes and that the Debtor shall not be deemed to have made an assignment in bankruptcy under section 50.4(8) of the BIA.
- [23] **ORDERS** and **DECLARES** that effective upon the issuance of the Certificate, each of the ResidualCos shall be deemed to have made an assignment in bankruptcy, with the Trustee acting as trustee in bankruptcy, and the Trustee shall, without delay, file with the official receiver a report of the deemed assignment in bankruptcy pursuant to the BIA.

RELEASES

- [24] **ORDERS** that effective upon the issuance of the Certificate, (i) the present and former directors, officers, employees, legal counsel and advisors of the Debtor, (ii) any director, officer, employee, legal counsel and advisors of the ResidualCos and (iii) the Trustee (collectively, the "**Released Parties**") shall be deemed to be forever irrevocably released and discharged from any and all present and future Claims based in whole or in part on any act or omission, transaction, offer, investment proposal, dealing, statutory declaration under the *Business Corporations Act* (Québec) or *Canada Business Corporations Act* as permitted pursuant to the terms of this Order, or other occurrence existing or taking place prior to the issuance of the Certificate or completed pursuant to the terms of this Order and/or in connection with the Transaction, in respect of the Debtor or its assets, business or affairs, or prior dealings with the Debtor, wherever or however conducted or governed, the administration and/or management of the Debtor and these proceedings (collectively, the "**Released Claims**"), which Released Claims are hereby fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties, and are not vested nor transferred to the ResidualCos or to any other entity and are

extinguished, provided that nothing in this paragraph shall waive, discharge, release, cancel or bar any liability arising out of the fraud, gross negligence or willful misconduct of any Released Party or any claim that is not permitted to be released pursuant to Section 50(14) of the BIA.

THE TRUSTEE

- [25] **APPROVES** the activities of the Trustee up until the date of the present Order in connection with the current restructuring proceedings, including the activities of the Trustee described in its Report.
- [26] **DECLARES** that the Trustee has satisfied its obligations pursuant to the BIA and is in compliance with the orders granted by this Court up until the date of the present Order.
- [27] **DECLARES** that no action lies against the Trustee 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 Trustee or belonging to the same group as the Trustee shall benefit from the protection arising under the present paragraph.
- [28] **AUTHORIZES** Raymond Chabot Inc. to hold the Administrative Expense Reserve in trust for the benefit of Persons entitled to be paid the Administrative Expense Costs and to pay, on behalf of the Debtor, to the the Persons entitled to be paid the Administrative Expense Costs, their respective Administrative Expense Costs or, if the aggregate Administrative Expense Costs exceed the Administrative Expense Reserve, their respective pro rata portion of the Administrative Expense Reserve, the whole in accordance with the Subscription Agreement.

RELEASE OF CERTAIN NOI CHARGES

- [29] **ORDERS** that upon issuance of the Certificate by the Trustee, the D&O Charge, the Interim Financing Charge and the Administration Charge (as such terms are defined in the First Order) shall be terminated, released and discharged without any other act or formality.

GENERAL

- [30] **ORDERS** that the Investor, the Debtor or the Trustee shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.
- [31] **ORDERS** that Appendix B to the Report filed as filed as **Exhibit R-3** in support of the Application be kept confidential and under seal until the earlier of a) the closing of the Transaction; or b) further order of this Court.
- [32] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.

- [33] **DECLARES** that the Trustee shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Trustee as may be deemed necessary or appropriate for that purpose.
- [34] **ORDERS** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

THE WHOLE WITHOUT COSTS.


The Honourable Céline Legendre,
J.C.S.