

(Commercial Division)
SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-11-035039-086

DATE: March 24, 2009

IN THE PRESENCE OF: THE HONOURABLE JUSTICE ROBERT MONGEON, J.C.S.

IN THE MATTER OF THE *COMPANIES CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, ch. C-36, as amended, of:

BIOXEL PHARMA INC.,

Debtor / Petitioner

-and-

PRICEWATERHOUSECOOPERS INC.,

Monitor

-and-

-and-

INVESTISSEMENT QUÉBEC,

-and-

CAISSE DESJARDINS DE SILLERY SAINT-LOUIS-DE-FRANCE,

-and-

INTAS PHARMACEUTICALS LIMITED,

-and-

ANDRÉ P. BOULET, Ph.D.,

-and-

JACQUES LÉVESQUE, FCA,

-and-

PIERRE LACROIX, ING., Ph.D.,

-and-

PIERRE LAPALME,

-and-

PIERRE TESSIER,

-and-

RAFIK HENEIN,

-and-

LOUIS MCGUIRE, CA,

-and-

OLIVIER MEYER, Ph.D.,

-and-

PERSONAL AND MOVABLE REAL RIGHTS REGISTRAR,

Mises en cause

ORDER

[1] **SEEING** *Bioxel Pharma Inc.'s Amended Motion for Authorization to Sell Part of the Debtor / Petitioner's Assets;*

[2] **GIVEN** the provisions of the CCAA;

WHEREFORE, THE COURT:

- [3] **DECLARES** valid and sufficient the prior notices given of the hearing of the *Amended Motion for Authorization to Sell Part of the Debtor / Petitioner's Assets*;
- [4] **GRANTS** *Amended Motion for Authorization to Sell Part of the Debtor / Petitioner's Assets*;
- [5] **AUTHORIZES** the Debtor / Petitioner *Bioxel Pharma Inc.* (hereinafter "**Bioxel**") to accept the offer of *Intas Pharmaceuticals Limited* (hereinafter "**Intas**"); a true copy of which has been filed in the Court record herein under seal as **EXHIBIT P-2** (hereinafter the "**Offer**"), as amended by the Amended Offer of Intas, a true copy of which has been filed in the Court record herein under seal as **EXHIBIT P-3**;
- [6] **AUTHORIZES** Bioxel to sell its assets to Intas or an assignee thereof pursuant to the terms of the Offer (**P-2**) and the Amended Offer (**P-3**) and to take any and all actions in order to proceed with such sale and, notwithstanding the generality of the foregoing, to execute any and all documents necessary or simply useful in order to facilitate the execution of the sale based on the Offer and the Amended Offer in their actual form or any other subsequent form (hereinafter the "**Transaction**");
- [7] **AUTHORIZES** Mr. Olivier Meyer, President of Bioxel, to take any and all actions in order to proceed and/or to give effect to the Transaction and, notwithstanding the generality of the foregoing, to execute any and all documents necessary or simply useful to give full effect to the Transaction;
- [8] **DECLARES** that upon filing with this Honourable Court of a certificate by the Monitor *PricewaterhouseCoopers Inc.* stating that the Transaction is completed (hereinafter the "**Monitor's Certificate**"), any and all of Bioxel's assets purchased pursuant to the Transaction shall be and are hereby vested in the *Mise en cause Intas*, absolutely and forever free and clear of and from any and all encumbrances, liens, claims, rights, title, interests, security interests, charges, pledges, mortgages, hypothecations, hypothecs, judgments, executions, writs of seizure and sale, options, adverse claims, levies, charges, priorities, remedies from facts which exist as of the date of the present judgment whether known or unknown, or any other rights, rights of use, disputes and debts of all persons or entities of any kind whatsoever and howsoever arising, whether contractual, statutory, by operation of law or otherwise, whether perfected, attached, registered or filed, whether secured, unsecured or otherwise and whether created by or pursuant to the orders made in these proceedings, including all charges created by order of this Court in the Initial Order and/or further orders;

- [9] **DECLARES** that the Transaction shall have the effect of a sale under judicial authority which discharges all real rights, to the extent provided by the *Code of Civil Procedure of Québec*, R.S.Q. ch. C-25;
- [10] **ORDERS** the *Personal and Movable Real Rights Registrar* to strike the hypothecs registered under the following numbers, such that all of the movable assets of Bioxel are no longer affected by the following hypothecs and registrations:

04-0221439-0001	04-0237185-0001	08-0325072-0001
06-0418327-0001	04-0731473-0001	08-0325072-0003
04-0430697-0001	06-0502065-0001	06-0514299-0002
04-0237246-0001	06-0502065-0003	05-0002084-0001
08-0241931-0001	04-0430697-0004	
08-0325072-0002	06-0418327-0001	
06-0514299-0001	04-0430697-0003	
08-0325072-0004	06-0502065-0005	
08-0325072-0005	06-0502065-0004	

the whole on presentation of the required form with a true copy of the present judgment and the Monitor's Certificate attesting that Transaction is completed;

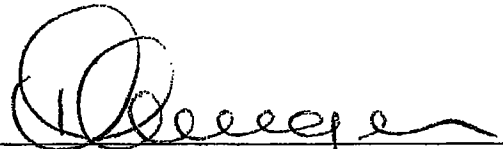
- [11] **ORDERS** that :
- The Interim Financing Charge ("*Charge du Prêteur Intérimaire*") and the Administration Charge ("*Charge Administrative*") created pursuant to the Initial Order;
 - The CCL Charge created pursuant to an Order of this Honourable Court rendered on February 23, 2009; and
 - Any other existing charge, hypothec or lien duly registered against the assets of Bioxel, notably the hypothecs registered in favour of *Investissement Québec* and *Caisse Desjardins de Sillery St-Louis de France*,

be transferred and/or extended on the sale proceeds of the Transaction;

- [12] **ORDERS** that the sale proceeds of the Transaction be entrusted with the Monitor and **AUTHORIZES** the Monitor to distribute any and all sale proceeds resulting from the Transaction amongst Bioxel's creditors in the following manner, or any other manner agreed upon by the beneficiaries of the following charges:

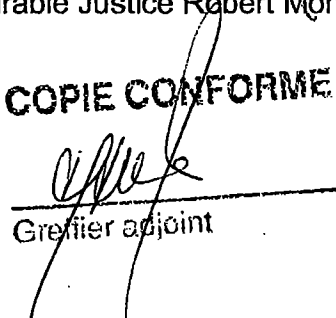
- First in payment of the CCL Charge created pursuant to an Order of this Honourable Court rendered on February 23, 2009;
- Second, in payment of the Administration Charge ("*Charge Administrative*") created pursuant to the Initial Order;
- Third, in payment of the Interim Financing Charge created pursuant to the Initial Order ("*Charge du Prêteur Intérimaire*");
- Fourth in payment of the amount of \$100,000.00 to be paid to some of Bioxel's officers and members of the management team who benefit from a contractual indemnity as mentioned in paragraph 27 of the Amended Motion for Authorization to Sell Part of the Debtor / Petitioner's Assets;
- Fifth, in payment of Bioxel's secured creditors in accordance with their rank in satisfaction of all priorities and hypothecary interest; and
- The balance, if any, in full and final payment of Bioxel's creditors' claims;

- [13] **AUTHORIZES** the Monitor to terminate any and all employment agreement and/or relationship entered into between the Debtor Bioxel and any of its employees;
- [14] **AUTHORIZES** the Monitor to accept any required amendments to the Offer, as amended by the Amended Offer, as long as the transaction contemplated thereto remains in the best interest of the stakeholders;
- [15] **AUTHORIZES AND EMPOWERS** the Monitor to file an voluntary assignment pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. (1985) ch. B-3 on behalf of Bioxel if deemed appropriate by the Monitor;
- [16] **ORDERS** the provisional execution of the present order notwithstanding appeal.
- [17] **THE WHOLE** without costs;



Honourable Justice Robert Mongeon,
J.C.S.

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