

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN  
OF COMPROMISE OR ARRANGEMENT OF  
GROWTHWORKS CANADIAN FUND LTD.

**FIFTH REPORT OF  
FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR**

January 8, 2014

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1. On October 1, 2013, GrowthWorks Canadian Fund Ltd. (the “**Fund**” or the “**Applicant**”) made an application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the “**CCAA**”) and an initial order (the “**Initial Order**”, a copy of which is attached hereto as Appendix “A”) was made by the Honourable Justice Newbould of the Ontario Superior Court (Commercial List) (the “**Court**”) granting, *inter alia*, a stay of proceedings against the Applicant until October 31, 2013, which stay of proceedings was thereafter extended until January 15, 2014 (the “**Stay of Proceedings**”) and appointing FTI Consulting Canada Inc. as monitor of the Fund (the “**Monitor**”). The proceedings commenced by the Fund under the CCAA will be referred to herein as the “**CCAA Proceedings**”.

2. The Fund is a labour sponsored venture capital fund that currently has a mature and diversified portfolio consisting primarily of investments made in small and medium-sized Canadian businesses. The Fund was formed in 1988 with the investment objective of achieving long term appreciation for its Class A shareholders, whom principally comprise retail investors.

3. The Fund experienced liquidity issues because of, *inter alia*, an inability to access short-term financing as well as unfavourable market conditions impacting its ability to divest, at a profit, its relatively illiquid investments. As a result of these liquidity issues, the Fund was unable to meet its obligations as they became due, including the obligation of the Fund to make a \$20 million dollar payment to Roseway Capital S.a.r.l (“**Roseway**”), its sole secured creditor, which payment became due on September 30, 2013. With the consent of Roseway, the Fund filed for and obtained protection under the CCAA on October 1, 2013.

4. Prior to September 30, 2013 and the commencement of these CCAA Proceedings, the Fund’s day to day operations were delegated to GrowthWorks WV Management Ltd. (the “**Manager**”) pursuant to a Management Agreement dated July 15, 2006 (“**Management Agreement**”). In accordance with the terms of the Management Agreement, the Manager was permitted to delegate its duties under the Management Agreement to third parties. Pursuant to the Management Agreement, the Manager delegated the Manager’s obligations to GrowthWorks Capital Ltd (“**GWC**”). On September 30, 2013, the Fund terminated the Management Agreement for the reasons outlined in the Affidavit of Ian Ross, sworn September 30, 2013 and filed.

5. Pursuant to an Order granted by the Court on October 29, 2013, the Initial Order was amended and restated and the Stay of Proceedings was extended until January 15, 2014 (the “**Amended and Restated Initial Order**”). A copy of the October 29, 2013 Order attaching the Amended and Restated Initial Order is attached as Appendix “B”.

6. Pursuant to an Order granted by the Court On November 18, 2013, the Court approved a sales and investor solicitation process (“**SISP**”) for the purpose of offering the opportunity for potential investors to purchase or invest in the business or property of the Fund.

7. On November 28, 2013, the Court granted an Order authorizing the Fund, with the consent of the Monitor to, *inter alia*, make distributions to Roseway provided that certain priority payables are able to be paid by the Applicant when due.

#### **PURPOSE OF THIS REPORT**

8. The purpose of this fifth report of the Monitor is to update and inform the Court on the following:

- (a) the status of the SISP;
- (b) the status of the litigation proceedings commenced by Allen-Vanguard Corporation (“Allen-Vanguard”);
- (c) the status of the transitional services being provided to the Fund by the Manager and/or GWC;
- (d) the directors and officers insurance (“**D&O Insurance**”) coverage recently obtained by the Fund;
- (e) the oversight by the Fund of its venture portfolio (the “**Portfolio Companies**”);
- (f) the Monitor’s comments on the Applicant’s proposed Order establishing a claims solicitation and adjudication process (the “**Claims Procedure Order**”) for claims against the Applicant and the Directors and Officers (as defined therein);
- (g) the receipts and disbursements of the Fund for the period October 26, 2013 to January 3, 2014;

- (h) the Fund's cash flow projections for the period from January 4, 2014 to March 7, 2014; and
- (i) the Monitor's comments on the Applicant's request for an extension of the Stay of Proceedings.

## **TERMS OF REFERENCE**

9. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meanings defined in the affidavit of Ian Ross, Chairman of the Fund, sworn January 7, 2013 and filed (the "**January Affidavit**").

10. This report should be read in conjunction with the January Affidavit as certain information contained in the January Affidavit has not been included herein in order to avoid unnecessary duplication.

## **THE SISP**

11. Since early November 2013, the Applicants have taken steps to implement and carry out the sales process set out in Schedule "A" to the SISP Order. As described in the Third Report of the Monitor dated November 26, 2013 (the "**Third Report**"), CCC Investment Banking ("**CCC**"), with the assistance and consultation of the Fund and the Monitor, developed a list of potential purchasers and investors.

12. In addition, pursuant to the terms of the SISP Order, on November 22, 2013, the Monitor published in the Globe and Mail (National Edition) attached hereto as Appendix "C" and the Wall Street Journal attached hereto as Appendix "D", an advertisement of the acquisition or investment opportunity for the Fund's business and assets. As a result of the foregoing, 121

potential purchasers (the "**Potential Purchasers**") and 29 potential investors (the "**Potential Investors**", together with the Potential Purchasers, the "**Potential Parties**") were identified and in contact with CCC. Of the total Potential Parties contacted, 22 Potential Purchasers and 8 Potential Investors executed Confidentiality Agreements, received the Confidential Information Memorandum as well as access to the data room created and maintained by CCC.

13. On December 13, 2013, (the "**Phase 1 Bid Deadline**") CCC received several letters of intent ("**LOIs**") from Potential Parties, including from parties interested in a potential merger with the Fund. On December 16, 2013, the Fund, CCC and the Monitor met to (i) review the LOIs received at the Phase 1 Bid Deadline; (ii) determine whether the SISP should continue into Phase II; and (iii) if it was determined that the SISP should continue into Phase II, evaluate which of parties that submitted LOIs should be invited to continue. All submitted LOIs were evaluated on the basis of whether they met the criteria as set out in paragraph 19 of the SISP. In addition to the foregoing, the Fund, CCC and the Monitor met with Roseway on December 18, 2013, to describe the results of Phase I and to discuss the LOIs that were submitted.

14. The Special Committee in consultation with CCC and with the consent of the Monitor determined that there was a reasonable prospect of obtaining a Qualified Bid (as defined therein) and accordingly, that the SISP should continue into Phase II. The Monitor delivered its consent for the SISP to continue into Phase II to the Special Committee on December 20, 2013.

15. As a result of the foregoing determination, Phase II of the SISP commenced December 20, 2013. In accordance with the terms of the SISP, Qualified Bidders are required to deliver a final binding proposal to CCC by February 3, 2014 (the "**Phase II Bid Deadline**"). At any time during Phase II, the Fund, in consultation with CCC and Roseway and with the consent of the Monitor may extend the Phase II Bid Deadline by 15 days.

## THE STATUS OF THE ALLEN-VANGUARD LITIGATION PROCEEDINGS

16. As outlined more fully in the Third Report, on October 28, 2013, counsel to Allen-Vanguard served the Fund, the Monitor and all parties on the service list in the within proceedings, a notice of motion (the “**Allen-Vanguard Motion**”) for, *inter alia*, an Order by this Court that the Stay of Proceedings does not apply to the continuation of the proceedings bearing Court File No. 08-CV-43188 and Court File No. 08-CV-43544 (the “**Allen-Vanguard Proceedings**”).

17. The Allen-Vanguard Motion is derived from litigation proceedings commenced by Allen-Vanguard against the Fund and other offeree shareholders and which relate to Allen-Vanguard’s purchase of shares held by the Fund and other offeree shareholders in Med-Eng Systems Inc. (“**MES**”). Pursuant to the Amended Statement of Claim in the Allen-Vanguard Proceedings, Allen-Vanguard claimed against the Fund and the other offeree shareholders, damages for fraudulent and/or negligent misrepresentation and breach of contract in the amount of \$650 million, of which \$40 million would be paid out of an escrow agreement entered into on closing of the sale of the MES shares (the “**Escrow Agreement**”) plus pre-judgment and post-judgment interest and costs on a substantial indemnity basis (the “**Allen-Vanguard Claim**”). The main issue of concern for the Fund is whether the Fund and the other offeree shareholders are liable for amounts in excess of the \$40 million in escrow. The outcome of this dispute could materially impact the quantum and timing of distributions from any proceeds realized in the SISP to stakeholders other than Roseway, including its approximately 90,000 shareholders.

18. Pursuant to the endorsement of Justice Mesbur dated November 12, 2013, the Allen-Vanguard Motion is to be heard on February 11, 2014 and the parties are required to file materials and conduct cross examinations according to the timetable established therein.

19. On November 28, 2013, the Fund served a Notice of Cross Motion returnable February 11, 2013 (the “**Cross Motion**”). The Cross Motion is for an Order directing the trial of certain issues to be heard by way of mini trial in the CCAA Proceedings, including the issue as to whether Allen-Vanguard is entitled to seek damages beyond the \$40 million dollar amount held in escrow pursuant to the Escrow Agreement.

### **TRANSITIONAL SERVICES**

20. As outlined in greater detail in the Third Report, pursuant to the Amended and Restated Initial Order, the Manager and GWC were designated as critical suppliers in connection with the provision of transitional services to the Applicant. The scope of the transitional services to be provided by the Manager as well as the methodology for calculating the costs of such transitional services were agreed to in a Critical Services Transition Agreement entered into between the Applicant and the Manager on October 25, 2013 (the “**CTSA**”).

21. Since entering into the CTSA, the Fund has identified certain additional transition services which were not outlined in the scope of transitional services to be provided in the CTSA but are needed by the Fund. Accordingly, the Fund and the Manager, with the oversight of the Monitor, have negotiated for the provision of certain additional transition services to be provided by the Manager, namely recording certain shareholder information and administrative requests and processing account changes as they relate to certain RIF transfers from RRSPs. The Manager has begun and continues to provide these transition services to the Fund in addition to other ongoing services in accordance with the CTSA.

22. In addition to the foregoing, pursuant to the CTSA, the Manager is required to provide assistance with the Fund’s ongoing audit and valuation for fiscal 2013. The Fund and the



Manager continue to work with the auditors in this regard and it is currently estimated that the 2013 audit will be completed in mid to late January.

## **D&O INSURANCE**

23. The Fund's D&O Insurance policy expired on December 9, 2013. In order to ensure that the directors of the Fund continued to serve throughout the CCAA Proceedings, the Fund began exploring options in order to ensure sufficient coverage for its directors and officers.

24. The board of directors of the Fund determined the renewal terms offered by its existing carrier were not economic and after a thorough canvass of the market, approved coverage with a new carrier at a reduced coverage amount and term. The approximate cost of the continued coverage is \$285k and includes coverage for 12 months. The proposed D&O Insurance coverage was discussed with counsel to Roseway prior to the Fund obtaining binding D&O Insurance.

25. The board of directors of the Fund also approved the continued standalone policy of D&O Insurance for the members of the Independent Review Committee (the "IRC") of the board of directors of the Fund. The approximate cost of the continued coverage is \$15k and extends coverage for a one year period. The proposed IRC insurance coverage was discussed with counsel to Roseway prior to the Fund obtaining binding insurance.

## **OVERSIGHT OF THE PORTFOLIO COMPANIES**

26. The Fund continues to work with senior management and/ or other significant players in respect of certain active Portfolio Companies. The Fund maintains ongoing communication with certain of the Portfolio Companies and continues to attend board meetings

of certain active Portfolio Companies, where necessary. The Fund also continues to keep the Monitor apprised of the activities of the Portfolio Companies .

## **THE CLAIMS PROCEDURE ORDER**

27. Defined terms in this section of the report, not otherwise defined herein, have meanings ascribed to them in the draft Claims Procedure Order. The Fund seeks the approval of the Claims Procedure in the form of the draft Order attached as Tab “3” to the Fund’s Motion Record. The Claims Procedure Order will allow the Fund to solicit and determine all Claims, D&O Claims and D&O Indemnity Claims, except Excluded Claims.

### *Claims Bar Date*

28. The Applicant proposes that anyone asserting a Claim or D&O Claim be required to submit their Proof of Claim with the Monitor by no later than 5:00pm EST on March 6, 2014 (the “**Claims Bar Date**”).

29. The Applicant proposes that any Director or Officer that seeks to assert a D&O Indemnity Claim in response to a submitted D&O Claim, be required to submit their Proof of Claim to the Monitor within fifteen (15) Business Days following the receipt of D&O Claims. (“**D&O Indemnity Claims Bar Date**”).

30. The Monitor is of the view that the Claims Bar Date and the D&O Indemnity Claims Bar Date are reasonable. The Claims Bar Date and the D&O Indemnity Claims Bar Date provide sufficient time for Claimants and the Directors and Officers to evaluate and submit any Claim/D&O Indemnity Claim, as applicable.

*Solicitation of Claims Generally*

31. There are three types of affected claims that are being solicited and determined by the Monitor pursuant to the Claims Procedure Order:

- (a) *Claims*, other than Excluded Claims, which may be asserted against the Fund that (i) are based in whole or in part on facts prior to the Claims Bar Date, (ii) relate to a time period prior to the Claims Bar Date and (iii) are rights or claims of any kind that would be claims provable in bankruptcy within the meaning of the BIA had the Applicant become bankrupt on the Claims Bar Date.
- (b) *D&O Claims*, which are (i) Claims that may be asserted or made against one or more Directors or Officers that relates to a Claim for which such Directors or Officers are by law liable to pay in their capacity as Directors or Officers, or (ii) any right or claim of any Person that may be asserted or made in whole or in part against one or more Directors or Officers, in that capacity, (A) is based in whole or in part on facts prior to the Claims Bar Date, or (B) relates to a time period prior to the Claims Bar Date, but not including an Excluded Claim.
- (c) *D&O Indemnity Claims*, which are Claims of any Director or Officer against the Applicant, which arose or arises as a result of any Person asserting a D&O Claim for which such Director or Officer is entitled to be indemnified by the Applicant.

*Excluded Claims*

32. The Claims Procedure Order does not apply to the following Excluded Claims:

- (i) any Claim entitled to the benefit of the Administration Charge;

- (ii) the Claims of Roseway pursuant to the Participation Agreement dated May 28, 2010, including the disputed portion of such Claims, which shall be determined separately in these CCAA Proceedings; and
- (iii) any Post-Filing Claims.

*Notice to Claimants*

33. The draft Claims Procedure Order provides for the following notification of the Claims Process:

- (a) The Monitor shall, no later than two Business Days following the making of the Claims Procedure Order, post a copy of the Proof of Claim Document Package on the Monitor's website;
- (b) the Monitor shall no later than seven Business Days following the making of the Claims Procedure Order, cause the Notice to Claimants to be published once in the Globe and Mail newspaper (National Edition);
- (c) other than to Allen-Vanguard, the Monitor shall, within seven Business Days following the making of the Claims Procedure Order, send a Proof of Claims Document Package to all known Creditors, including to the Manager and to AGTL Shareholders, in accordance with the Applicant's books and records.

*Adjudication*

34. The Monitor will review all Proof of Claims in respect of filed Claims, D&O Claims and D&O Indemnity Claims and may (i) attempt to resolve and settle any issue in respect of any such claims; (ii) accept any Claim, D&O Claim or D&O Indemnity Claim; or (iii) by

notice in writing revise or disallow any such Claim, D&O Claim or D&O Indemnity Claim as applicable. .

*Claims of Allen-Vanguard*

35. To address the Allen-Vanguard Claim, the Claims Procedure Order provides that:
- (a) Allen-Vanguard will have been deemed to submit a Proof of Claim on account of the Allen-Vanguard Claim;
  - (b) the Monitor shall be deemed to have delivered a Notice of Revision and Disallowance disallowing the Allen-Vanguard Claim in its entirety;
  - (c) Allen-Vanguard shall have been deemed to submit a Dispute Notice disputing such disallowance of the entirety of the claim by the Monitor; and
  - (d) the procedure for determining the Allen-Vanguard Claim shall not be determined until after the hearing or other determination of the pending motion of Allen-Vanguard and cross-motion of the Applicant, now scheduled for February 11, 2014, unless otherwise agreed by the Applicant, the Monitor and Allen-Vanguard.

*Claims of the Manager*

36. Prior to September 30, 2013 and the commencement of these CCAA Proceedings, the management of the Fund's venture portfolio and other day-to-day operations were delegated to the Manager. On September 30, 2013, the Fund terminated the Management Agreement. Pursuant to a letter dated November 26, 2013, from the Manager to the Fund, the Manager, *inter alia*, rejected the basis for the Fund's termination of the Management Agreement. Accordingly,

the Manager takes the position that having being terminated without cause, the Manager is entitled to damages in the approximate amount of \$18,000,000.

37. To address the Manager's claim, the Claims Procedure Order provides that the Manager shall be deemed to have submitted a Proof of Claim in the amount of \$18,000,000 (the "**Manager Claim**"). In addition, the Manager may deliver a Statement of Claim setting out its claim against the Applicant. The Statement of Claim, if any, shall be delivered to the Applicant and the Monitor on or before the Claims Bar Date.

38. The Applicant, in consultation with the Monitor, may revise or disallow the Manager Claim (in whole or in part) and dispute any allegation contained in the Statement of Claim attached to the Manager's Proof of Claim, if any, by delivering to the Manager a Notice of Revision or Disallowance, which shall attach a Statement of Defence and Counterclaim setting out the basis for the revision or disallowance and any counterclaims against the Manager.

39. To the extent the Manager intends to dispute the Notice of Revision or Disallowance, the Manager shall deliver a Notice of Dispute in accordance with the terms of the Claims Procedure Order and shall attach a Reply and Defence to Counterclaim.

40. If the Manager's Dispute is not settled within a time period satisfactory to the Monitor in consultation with the Applicant and the Manager (after delivery of any pleadings) or in a manner satisfactory to the Monitor in consultation with the Applicant and the Manager, then the Applicant, the Manager and the Monitor shall attend before a judge of the Court to set a timetable for all procedural steps necessary for the hearing of the Manager Dispute.

41. The Monitor understands that counsel for the Applicant consulted with counsel for the Manager with respect to the method of addressing the Manager's claim proposed in the

draft Claims Procedure Order (as outlined above) and that the Manager has agreed to the proposed methodology.

*Monitor's Role in the Claims Procedure*

42. In summary, the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA and under the Initial Order, shall administer the Claims Process, including, without limitation, by:

- (a) publishing notice of the Claims Process once in The Globe and Mail (National) edition;
- (b) other than to Allen Vanguard, sending Proof of Claim Document Packages to known Creditors, including to the Manager and the AGTL Shareholders, and to Persons requesting Proof of Claim Document Packages;
- (c) reviewing Proofs of Claim and D&O Proofs of Claim, in consultation with Applicants;
- (d) sending D&O Proofs of Claim received to the affected Directors and Directors;
- (e) sending Notices of Revision or Disallowance;
- (f) in accordance with the terms of the Claims Procedure Order, resolving and settling Claims, D&O Claims and D&O Indemnity Claims and/or accepting a Claim, D&O Claim, or D&O Indemnity Claim as applicable;
- (g) dealing with the Manager's Claim in accordance with the terms of the Claims Procedure Order; and

- (h) seeking further direction of the Court concerning an appropriate process for resolving any remaining disputes with respect to Claims, D&O Claims and D&O Indemnity Claims.

*The Monitor's comments*

43. The Monitor is of the view that the proposed Claims Procedure Order is appropriate and reasonable in the circumstances. The Claims Procedure Order will enable the Fund to identify and determine the amount and nature of any claims that may be asserted against it in addition to the known claims of the Manager and Allen-Vanguard. This will assist the Fund and Monitor in evaluating any transaction submitted that requires the amount and nature of all claims to be identified at the end of Phase II of the SISP.

44. In addition to the foregoing, in an effort to maintain a cost efficient CCAA process, the proposed Claims Procedure Order does not require the Monitor to send Notices of Revision or Disallowance by a prescribed date. Accordingly, the Monitor will review all Proofs of Claim filed and intends to use its discretion to respond to and, if necessary, adjudicate disputed claims in accordance with the proposed Claims Procedure Order only if the results of the SISP necessitate doing so prior to the closing of any transaction. Therefore, the cost of administering the proposed Claims Procedure and, if necessary, adjudicating disputed claims should be minimal at the outset.

**ACTUAL RECEIPTS AND DISBURSEMENTS OF THE FUND FOR THE PERIOD  
OCTOBER 26, 2013 TO JANUARY 3, 2014**

45. The Fund's actual net cash flow for the period from October 26, 2013 to January 3, 2014 (the "**Current Period**") together with an explanation of key variances as compared to



the October 26 Forecast is set out below. Actual net cash flows for the Current Period were approximately \$1.25 million higher than forecast, summarized as follows:

<b>\$000</b>	<b>Forecast</b>	<b>Actual</b>	<b>\$ Variance</b>
<b>Cash Inflow</b>			
Venture Exits and/or Distributions from Portfolio Companies	\$ 1,238	\$ 744	\$ (494)
Cash and Cash Equivalents	\$ -	\$ 1,896	\$ 1,896
<b>Total Cash Inflow</b>	<b>\$ 1,238</b>	<b>\$ 2,639</b>	<b>\$ 1,401</b>
<b>Cash Outflow</b>			
Follow on Funding	\$ -	\$ -	\$ -
CEO Fees & Expenses	\$ 66	\$ 50	\$ (16)
Board Fees	\$ -	\$ -	\$ -
Insurance Fees	\$ 100	\$ -	\$ (100)
Financial Advisor Fees	\$ 275	\$ 206	\$ (69)
Other	\$ 223	\$ 213	\$ (10)
<b>Total Cash Outflow</b>	<b>\$ 664</b>	<b>\$ 469</b>	<b>\$ (195)</b>
<b>Restructuring Costs</b>			
Professional Fees	\$ 1,070	\$ 1,416	\$ 346
<b>Total Restructuring Fees</b>	<b>\$ 1,070</b>	<b>\$ 1,416</b>	<b>\$ 346</b>
<b>Net Cash Flow</b>	<b>\$ (496)</b>	<b>\$ 754</b>	<b>\$ 1,250</b>
Opening Cash Balance	\$ 4,575	\$ 4,575	\$ -
Net Cash Flow	\$ (496)	\$ 754	\$ 1,250
Unrealized FX Gain/Loss	\$ -	\$ 63	\$ 63
<b>Ending Cash Balance</b>	<b>\$ 4,079</b>	<b>\$ 5,392</b>	<b>\$ 1,314</b>

*Note: The cash balance is denominated in USD and has been translated to CAD based on foreign exchange rates from the Bank of Canada. The Unrealized Gain/Loss balance is subject to change and will fluctuate with the USD/CAD exchange rate.*

46. The variance in actual receipts and disbursements is comprised primarily of the following:

- (a) A negative variance of approximately \$500,000 in venture exits and/or distributions from Portfolio Companies. The variance is permanent in nature and relates to expected payments that did not materialize but which were partially offset by unforecasted payments that were received from various Portfolio Companies;

- (b) A positive variance of approximately \$1.9 million in cash and cash equivalents. This variance is permanent in nature and is made up of funds transferred from accounts held at RBC in the name of the Manager for the benefit of the Fund;
- (c) A positive variance of approximately \$100,000 in D&O Insurance costs. This variance is temporary in nature; and
- (d) A negative variance of approximately \$350,000 in professional and other fees.

47. As discussed above, the additional funds totaling approximately \$1.9 million that were held in RBC accounts in the name of the Manager for the benefit of the Fund have since been transferred to trust accounts set up by the Monitor. The Monitor has placed approximately \$965 thousand in a one year cashable GIC at an interest rate of 1.1%. These funds have been placed in a one year GIC (the “GIC”) in accordance with the direction from the Company and pursuant to a prospectus filed by the Company in respect of its Class A shares, including GIC series shares.

48. The Monitor is aware of a dispute between Roseway and the Fund as to Roseway’s entitlement to approximately \$2 million included in the cash at bank under the control of the Monitor. The Monitor is holding the disputed funds separately (the “**Segregated Funds**”), on the express understanding that segregation of these funds does not indicate the Fund’s, or the Monitor’s agreement as to Roseway’s claim to the Segregated Funds. The Segregated Funds remain available to the Fund should they be needed. The Monitor and Monitor’s counsel are willing to assist in resolving such dispute if requested to do so.

## **THE COMPANY’S CASH FLOW FORECAST**

49. The Company has prepared a revised cash flow forecast for the period January 4, 2014 to March 7, 2014 (the “**January 4 Forecast**”). A copy of the January 4 Forecast is attached as Appendix “E”. The January 4 Forecast shows a positive net cash flow of approximately \$3.7 million, and is summarized below:

Cash Inflow	
Venture Exits and/or Distributions	6,444
<b>Total Cash Inflow</b>	<b>6,444</b>
Cash Outflow	
Follow on Funding	100
CEO Fees & Expenses	66
Insurance Fees	301
Legal & Financial Advisor Fees	544
Board Fees	160
Other	148
<b>Total Cash Outflow</b>	<b>1,319</b>
Restructuring Costs	
Legal & Professional Fees	1,458
<b>Total Restructuring Fees</b>	<b>1,458</b>
<b>Net Cash Flow</b>	<b>3,667</b>
Opening Cash Balance	5,392
Net Cash Flow	3,667
Ending Cash Balance	<b>9,059</b>

50. It is anticipated that the Company’s projected liquidity requirements throughout the January 4 Forecast period will continue to be met by existing cash available to the Company.

### **STAY EXTENSION**

51. The stay period currently expires on January 15, 2014 (the “**Stay Period**”). Continuation of the Stay of Proceedings is required for the Fund to facilitate the development and implementation of the SISP. Accordingly, the Fund seeks an extension of the Stay Period to March 7, 2014. The Fund and the Monitor believe that the proposed extension to the Stay Period

will allow an appropriate amount of time for (i) the Fund to proceed with Phase II of the SISP and (ii) for the Fund, CCC and the Monitor to analyze the value of any bids received against each other.

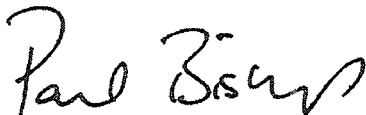
52. The Monitor believes that the various stakeholders and creditors of the Fund would not be materially prejudiced by an extension of the stay period to March 7, 2014. The Monitor is also of the belief that the Fund has acted, and is acting, in good faith and with due diligence and that circumstances exist that warrant an extension of the stay to March 7, 2014.

The Monitor respectfully submits to the Court this Fifth Report.

Dated this 8th day of January, 2014.

FTI Consulting Canada Inc.

in its capacity as Monitor of GrowthWorks Canadian Fund Ltd. and not in its personal or corporate capacity



Paul Bishop  
Senior Managing Director



Jodi B. Porepa  
Managing Director

# APPENDIX “A”

Court File No.: »

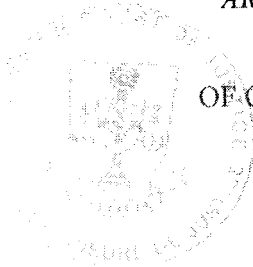
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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE MR. ) TUESDAY, THE 1<sup>ST</sup>  
 )  
JUSTICE NEWBOULD ) DAY OF OCTOBER, 2013

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PROPOSED PLAN  
OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
GROWTHWORKS CANADIAN FUND LTD.  
(the "APPLICANT")



**INITIAL ORDER**

THIS APPLICATION, made by the Applicant, pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of C. Ian Ross sworn September 30, 2013 and the Exhibits thereto (the "**Ross Affidavit**"), and on being advised that Roseway Capital S.a.r.l. ("**Roseway**"), the secured creditor who is likely to be affected by the charges created herein was given notice, and on hearing the submissions of counsel for the Applicants, counsel for Roseway and counsel for the proposed Monitor, FTI Consulting Canada Inc., counsel for the Manager (defined below) and on reading the consent of FTI Consulting Canada Inc. to act as the Monitor,

THIS APPLICATION, made by the Applicant, pursuant to the CCAA was heard this day at 330 University Avenue, Toronto, Ontario.

## **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

## **APPLICATION**

2. THIS COURT ORDERS AND DECLARES that the Applicant is a company to which the CCAA applies.

## **PLAN OF ARRANGEMENT**

3. THIS COURT ORDERS that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

## **POSSESSION OF PROPERTY AND OPERATIONS**

4. THIS COURT ORDERS that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicant shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Applicant shall be entitled to utilize a central cash management system (a "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or

application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all reasonable transition costs of the Manager (as defined below), and all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing management agreements, compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

7. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services;



- (b) Follow on Investments in Portfolio Companies (as defined in the Ross Affidavit) for which provision is made in the Cash Flow Projection (as defined in the Ross Affidavit) or which are approved by the Monitor; and
- (c) payment for goods or services actually supplied to the Applicant following the date of this Order.

8. THIS COURT ORDERS that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. THIS COURT ORDERS that until a real property lease is disclaimed in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the

landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order.

10. THIS COURT ORDERS that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date except as provided in the Cash Flow Projection; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

#### **RESTRUCTURING**

11. THIS COURT ORDERS that the Applicant shall, subject to such requirements as are imposed by the CCAA have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$25,000 in any one transaction or \$100,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate and terminate the provision of transitional services by the Manager (as defined below); and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the "**Restructuring**"). For greater clarity, dispositions of the Applicant's interest in a Portfolio Company (as defined in the Ross Affidavit) as part of a liquidity event, is an ordinary course transaction that does not require Court approval.

12. THIS COURT ORDERS that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

13. THIS COURT ORDERS that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY**

14. THIS COURT ORDERS that until and including October 31, 2013, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process

in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

15. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entity (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

16. THIS COURT ORDERS that any rights or obligations, including any right or obligation under a contract, an agreement or other document affecting or relating to a Portfolio Company (as defined in the Ross Affidavit), that arise, come into effect or are "triggered" by the insolvency of the Applicant, by the commencement of these proceedings or the making of this Order shall be of no effect and no person shall be entitled to exercise any rights or remedies in connection therewith.

#### **NO INTERFERENCE WITH RIGHTS**

17. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant or any right, renewal right, contract, agreement, licence or permit in favour

of or held by a Portfolio Company to the extent relevant to the Applicant, the Business, the Property or these proceedings, except with the written consent of the Applicant and the Monitor, or leave of this Court.

#### **CONTINUATION OF SERVICES**

18. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

#### **NON-DEROGATION OF RIGHTS**

19. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

*this Order is without prejudice to any arguments of the fund,*

**CRITICAL SUPPLIERS**

20. THIS COURT ORDERS AND DECLARES that Growthworks WV Management Ltd. (the "Manager"), GrowthWorks Capital Ltd. ("GWC"), and each ~~Person engaged or contracted by the Manager and/or GWC (not including employees of the Manager or GWC) in connection with providing services to the Applicant pursuant to the Management Agreement described in the Ross Affidavit (the "Management Agreement") is a critical supplier to the Applicant as contemplated by Section 11.4 of the CCAA (each, a "Critical Supplier")~~

*the purported termination of*

*to the extent this Court declares any Person*

21. THIS COURT ORDERS that each Critical Supplier shall be entitled to the benefit of and is hereby granted a charge (together, the "Critical Suppliers' Charge") on the Property of the Applicant in an amount equal to the lesser of (a) the value of the goods and services supplied by such Critical Supplier and received by the Applicant after the date of this Order less all amounts paid to such Critical Supplier in respect of such goods and services; (b) the amount to which the Manager is entitled to be paid under section 8.6(b) of the Management Agreement; and (c) \$50,000. The Critical Supplier Charge shall have the priority set out in paragraphs 36 and 38 herein.

*a critical Supplier as contemplated by Section 11.4 of the CCAA by subsequent order*

**PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

22. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

*(each, a "Critical Supplier")*

## **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

23. THIS COURT ORDERS that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

24. THIS COURT ORDERS that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1,000,000, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 36 and 38 herein.

25. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 23 of this Order.

## **APPOINTMENT OF MONITOR**

26. THIS COURT ORDERS that FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

27. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the Applicant in its preparation of the Applicant's cash flow statements;
- (d) advise the Applicant in respect to the Plan and any amendments to the Plan;
- (e) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) have full and complete access to the Property including the premises, the premises of the Manager to the extent Property of the Applicant is located on the Manager's premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order and all Persons, including the Applicant and the Manager, shall permit such full and complete access to such Property to the Monitor;
- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (h) establish one or more accounts to hold any proceeds of the disposition of the Portfolio Companies (the "**Proceeds Accounts**");



- (i) administer the Proceeds Accounts for and on behalf of the Applicants and to distribute funds from such Proceeds Accounts from time to time to satisfy expenses that the Applicant is entitled and/or required to pay pursuant to this Order, as directed by the Applicant and in accordance with the Cash Flow Projection and any update cash flow projections; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

28. THIS COURT ORDERS that the Monitor shall not take possession of the Property with the exception of the Proceeds Accounts, and shall take no part whatsoever in the management or supervision of the management of the Business or the businesses of the Portfolio Companies and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

29. THIS COURT ORDERS that McCarthy Tétrault LLP is entitled to transfer the funds held by it in trust as described in the Ross Affidavit at paragraph 88, and any future proceeds that may be received by it from time to time from the disposition of the Portfolio Companies, to the Monitor for deposit into the Proceeds Accounts to be held by the Monitor for and on behalf of the Applicant in accordance with the terms of this Order.

30. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the

"**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

31. THIS COURT ORDERS that that the Monitor shall provide to any creditor of the Applicant information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

32. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order (including, without limitation, with respect to administering the Proceeds Accounts for and on behalf of the Applicants), save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

33. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, counsel to the Applicant and CCC, retainers in the amount of \$50,000,

respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time

34. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

35. THIS COURT ORDERS that the Monitor, counsel to the Monitor, CCC (as defined in the Ross Affidavit), and the Applicant's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 36 and 38 hereof.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

36. THIS COURT ORDERS that the priorities of the Directors' Charge, the Administration Charge and the Critical Suppliers' Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$500,000);

Second – Directors' Charge (to the maximum amount of \$1,000,000); and

Third – Critical Suppliers' Charge (to the maximum amount of \$50,000).

37. THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge, the Administration Charge and the Critical Suppliers' Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

38. THIS COURT ORDERS that each of the Charges (as constituted and defined herein) shall constitute a charge on the Property and the Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

39. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtains the prior written consent of the Monitor and the beneficiaries of the Charges, or further Order of this Court.

40. THIS COURT ORDERS that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to *Bankruptcy and Insolvency Act* (the "**BIA**"), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create nor be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and

- (c) neither the payments made by the Applicant pursuant to this Order nor the granting of the Charges shall constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

41. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

#### **SERVICE AND NOTICE**

42. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in [newspapers specified by the Court] a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

43. THIS COURT ORDERS that the Applicant and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

44. THIS COURT ORDERS that the Applicant, the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as

recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at <http://cfcanda.fiiconsulting.com/gcfl>.

#### **GENERAL**

45. THIS COURT ORDERS that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

46. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, a Portfolio Company, the Business or the Property.

47. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, 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 Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

48. THIS COURT ORDERS that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

49. THIS COURT ORDERS that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

50. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

  
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ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.



OCT 0 1 2013

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF GROWTHWORKS CANADIAN FUND LTD.

Court File No:

CV-13-10379-0002

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**INITIAL ORDER**

**MCCARTHY TÉTRAULT LLP**  
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Law Society No. 48354R

Lawyers for the Applicant  
#12547919



# **APPENDIX “B”**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE MADAME ) TUESDAY, THE 29<sup>TH</sup>  
 )  
JUSTICE MESBUR ) DAY OF OCTOBER, 2013

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PROPOSED PLAN  
OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
GROWTHWORKS CANADIAN FUND LTD.  
(the "**APPLICANT**")

**ORDER**

THIS MOTION, made by the Applicant, for an order extending the Stay Period (the "**Stay Period**") defined in paragraph 14 of the Initial Order of the Honourable Mr. Justice Newbould dated October 1, 2013 (the "**Initial Order**") until January 15, 2014, and amending and restating the Initial Order to, among other things, declare certain persons critical suppliers and permit the Applicant to provide an indemnity for certain Applicant-nominated directors of companies in the Applicants' investment portfolio and a related charge, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of C. Ian Ross sworn October 25, 2013 and the Exhibits thereto (the "**Ross Affidavit**") and the Second Report (the "**Second Report**") of FTI Consulting Canada Inc., in its capacity as Court-appointed monitor (the "**Monitor**"), on being advised that Roseway Capital S.a.r.l. consents to the relief requested in this motion, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor and counsel for Growthworks WV Management Ltd. (the "**Manager**") no one appearing for any other party although duly served as appears from the affidavit of service,

✓  
counsel for Roseway, des

**SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the supporting materials is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

**STAY EXTENSION**

2. THIS COURT ORDERS that the Stay Period is hereby extended until and including January 15, 2014.

**MONITOR'S ACTIVITIES AND REPORT**

3. THIS COURT ORDERS that the First Report of the Monitor dated October 8, 2013 and the Second Report of the Monitor and the activities described therein are hereby approved.

**AMENDED AND RESTATED INITIAL ORDER**

4. THIS COURT ORDERS AND DECLARES that the Initial Order is hereby amended and restated in the form attached hereto as Schedule "A".



FILED  
CLERK OF COURT  
LEWIS & CLARK COUNTY, MISSOURI



OCT 29 2013

**SCHEDULE "A" – AMENDED AND RESTATED INITIAL ORDER**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE MR. ) TUESDAY, THE 1<sup>ST</sup>  
 )  
JUSTICE NEWBOULD ) DAY OF OCTOBER, 2013

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PROPOSED PLAN  
OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
GROWTHWORKS CANADIAN FUND LTD.  
(the "APPLICANT")

**AMENDED AND RESTATED INITIAL ORDER**

THIS APPLICATION, made by the Applicant, pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of C. Ian Ross sworn September 30, 2013 and the Exhibits thereto (the "Ross Affidavit"), and on being advised that Roseway Capital S.a.r.l. ("Roseway"), the secured creditor who is likely to be affected by the charges created herein was given notice, and on hearing the submissions of counsel for the Applicants, counsel for Roseway and counsel for the proposed Monitor, FTI Consulting Canada Inc., counsel for the Manager (defined below) and on reading the consent of FTI Consulting Canada Inc. to act as the Monitor,

THIS APPLICATION, made by the Applicant, pursuant to the CCAA was heard this day at 330 University Avenue, Toronto, Ontario.

## SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

## APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicant is a company to which the CCAA applies.

## PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

## POSSESSION OF PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicant shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Applicant shall be entitled to utilize a central cash management system (a "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or

application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all reasonable transition costs of the Manager (as defined below) pursuant to the terms of the Critical Transition Services Agreement (as defined below), and all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing management agreements, compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

7. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services;

- (b) Follow on Investments in Portfolio Companies (as defined in the Ross Affidavit, the "**Portfolio Companies**", each a "**Portfolio Company**") for which provision is made in the Cash Flow Projection (as defined in the Ross Affidavit) or which are approved by the Monitor; and
- (c) payment for goods or services actually supplied to the Applicant following the date of this Order.

8. THIS COURT ORDERS that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. THIS COURT ORDERS that until a real property lease is disclaimed in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area



maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order.

10. THIS COURT ORDERS that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date except as provided in the Cash Flow Projection; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

#### **RESTRUCTURING**

11. THIS COURT ORDERS that the Applicant shall, subject to such requirements as are imposed by the CCAA have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$25,000 in any one transaction or \$100,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate and terminate the provision of transitional services by the Manager (as defined below); and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the "**Restructuring**"). For greater clarity, dispositions of the Applicant's interest in a Portfolio Company as part of a liquidity event, is an ordinary course transaction that does not require Court approval.

12. THIS COURT ORDERS that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

13. THIS COURT ORDERS that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY**

14. THIS COURT ORDERS that until and including October 31, 2013, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process

in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

15. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entity (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

16. THIS COURT ORDERS that any rights or obligations, including any right or obligation under a contract, an agreement or other document affecting or relating to a Portfolio Company, that arise, come into effect or are "triggered" by the insolvency of the Applicant, by the commencement of these proceedings or the making of this Order shall be of no effect and no person shall be entitled to exercise any rights or remedies in connection therewith.

#### **NO INTERFERENCE WITH RIGHTS**

17. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant or any right, renewal right, contract, agreement, licence or permit in favour

of or held by a Portfolio Company to the extent relevant to the Applicant, the Business, the Property or these proceedings, except with the written consent of the Applicant and the Monitor, or leave of this Court.

#### **CONTINUATION OF SERVICES**

18. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

#### **NON-DEROGATION OF RIGHTS**

19. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

## **CRITICAL SUPPLIERS**

20. THIS COURT ORDERS AND DECLARES that this Order is without prejudice to any arguments of the Fund, Growthworks WV Management Ltd. (the “**Manager**”) or GrowthWorks Capital Ltd. (“**GWC**”), in connection with the purported termination of the Management Agreement described in the Ross Affidavit (the “**Management Agreement**”).

21. THIS COURT ORDERS that, the Manager, GWC, and each Person engaged or contracted by the Manager and/or GWC (not including employees of the Manager or GWC) in connection with providing transitional services to the Applicant pursuant to the Management Agreement on or after October 1, 2013 is a critical supplier to the Applicant as contemplated by Section 11.4 of the CCAA (each, a “**Critical Supplier**”) and each Critical Supplier shall be entitled to the benefit of and is hereby granted a charge (together, the “**Critical Suppliers’ Charge**”) on the Property of the Applicant in an amount equal to the lesser of (a) the value of the goods and services supplied by such Critical Supplier and received by the Applicant after the date of this Order less all amounts paid to such Critical Supplier in respect of such goods and services; and, (b) the amount to which the Manager is entitled to be paid under the Critical Transition Services Agreement attached hereto as Schedule “1”. The Critical Supplier Charge shall have the priority set out in paragraphs 38 and 40 herein.

22. THIS COURT ORDERS that each Critical Supplier shall, in addition to any other obligations it has under this Initial Order, supply and continue to supply the Applicant with transitional services pursuant to the Management Agreement. In the case of the Manager, it shall supply and continue to supply the Critical Transition Services (as defined in the Critical Transition Services Agreement) pursuant to and as set out in the Critical Transition Services Agreement. No Critical Supplier may require the payment of a deposit or the posting of any security in connection with the supply of such services after the date of this Order.

### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

23. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant, or against any current or future Applicant-nominated director of any of the Portfolio Companies (the "**Portfolio Company Directors**") with respect to any claim against the directors, officers or Portfolio Company Directors that arose before, on or after the date hereof and that relates, (i) in the case of the former, current or future directors or officers of the Applicant, to any obligations of the Applicant, or (ii) in the case of the Portfolio Company Directors, to any obligations of the Portfolio Companies, and in either case whereby the directors, officers or Portfolio Company Directors are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

24. THIS COURT ORDERS that the Applicant shall indemnify its directors and officers, and may indemnify the Portfolio Company Directors if, in its own discretion and in consultation with the Monitor, it elects to do so, against obligations and liabilities that they may incur as directors or officers of the Applicant or directors of a Portfolio Company after the commencement of the within proceedings, except to the extent that, with respect to any director, officer or Portfolio Company Director, the obligation or liability was incurred as a result of the director's, officer's or Portfolio Company Director's gross negligence or wilful misconduct. The Applicant and the Portfolio Company Directors will use reasonable commercial efforts to address any dispute regarding the indemnity coverage with the guidance and assistance of the Monitor, and, if required, this Court.

25. THIS COURT ORDERS that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on

the Property, which charge shall not exceed an aggregate amount of \$1,000,000, as security for the indemnity provided in paragraph 24 of this Order. The Directors' Charge shall have the priority set out in paragraphs 38 and 40 herein.

26. THIS COURT ORDERS that the Portfolio Company Directors shall be entitled to the benefit of and are hereby granted a charge (the "**Portfolio Company Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$10,000,000, as security for the indemnity referred to in paragraph 24 of this Order, to the extent one is provided by the Applicant. The Portfolio Company Directors' Charge shall have the priority set out in paragraphs 38 and 40 herein.

27. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge or the Portfolio Company Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 24 of this Order, and the Portfolio Company Directors shall only be entitled to the benefit of the Portfolio Company Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified by the Applicant, to the extent an indemnity is provided by the Applicant accordance with paragraph 24 of this Order.

#### **APPOINTMENT OF MONITOR**

28. THIS COURT ORDERS that FTI Consulting Canada Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its

powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

29. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the Applicant in its preparation of the Applicant's cash flow statements;
- (d) advise the Applicant in respect to the Plan and any amendments to the Plan;
- (e) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) have full and complete access to the Property including the premises, the premises of the Manager to the extent Property of the Applicant is located on the Manager's premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order and all Persons, including the Applicant and the Manager, shall permit such full and complete access to such Property to the Monitor;
- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;



- (h) establish one or more accounts to hold any proceeds of the disposition of the Portfolio Companies (the “**Proceeds Accounts**”);
- (i) administer the Proceeds Accounts for and on behalf of the Applicants and to distribute funds from such Proceeds Accounts from time to time to satisfy expenses that the Applicant is entitled and/or required to pay pursuant to this Order, as directed by the Applicant and in accordance with the Cash Flow Projection and any update cash flow projections; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

30. THIS COURT ORDERS that the Monitor shall not take possession of the Property with the exception of the Proceeds Accounts, and shall take no part whatsoever in the management or supervision of the management of the Business or the businesses of the Portfolio Companies and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

31. THIS COURT ORDERS that McCarthy Tétrault LLP is entitled to transfer the funds held by it in trust as described in the Ross Affidavit at paragraph 88, and any future proceeds that may be received by it from time to time from the disposition of the Portfolio Companies, to the Monitor for deposit into the Proceeds Accounts to be held by the Monitor for and on behalf of the Applicant in accordance with the terms of this Order.

32. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other

contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

33. THIS COURT ORDERS that that the Monitor shall provide to any creditor of the Applicant information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

34. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order (including, without limitation, with respect to administering the Proceeds Accounts for and on behalf of the Applicants), save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

35. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis and, in

addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, counsel to the Applicant and CCC (as defined in the Ross Affidavit), retainers in the amount of \$50,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time

36. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

37. THIS COURT ORDERS that the Monitor, counsel to the Monitor, CCC (as defined in the Ross Affidavit), and the Applicant's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$500,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 38 and 40 hereof.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

38. THIS COURT ORDERS that the priorities of the Directors' Charge, the Administration Charge and the Critical Suppliers' Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$500,000);

Second – Directors' Charge (to the maximum amount of \$1,000,000);

Third – Critical Suppliers' Charge (to the maximum amount of \$50,000);  
and,

Fourth – Portfolio Company Directors' Charge and Critical Suppliers' Charge to the extent that it exceeds \$50,000.

39. THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge, the Administration Charge, the Critical Suppliers' Charge and the Portfolio Company Directors' Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

40. THIS COURT ORDERS that each of the Charges (as constituted and defined herein) shall constitute a charge on the Property and that the entire Directors' Charge, the entire Administration Charge and the Critical Suppliers' Charge to a maximum amount of \$50,000 shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person. To the extent the Critical Suppliers' Charge exceeds \$50,000, such additional amount, together with the Portfolio Company Directors' Charge, shall rank *pari passu* with one another behind the Encumbrances.

41. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtains the prior written consent of the Monitor and the beneficiaries of the Charges, or further Order of this Court.

42. THIS COURT ORDERS that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to *Bankruptcy and Insolvency Act* (the "BIA"), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e)

any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create nor be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) neither the payments made by the Applicant pursuant to this Order nor the granting of the Charges shall constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

43. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

#### **SERVICE AND NOTICE**

44. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in The Globe and Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

45. THIS COURT ORDERS that the Applicant and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

46. THIS COURT ORDERS that the Applicant, the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at <http://cfcanada.fticonsulting.com/gcfl>.

#### **GENERAL**

47. THIS COURT ORDERS that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

48. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, a Portfolio Company, the Business or the Property.

49. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, 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 Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative

status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

50. THIS COURT ORDERS that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

51. THIS COURT ORDERS that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

52. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

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# **APPENDIX “C”**



# THE WALL STREET JOURNAL.

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## DIVIDENDS

### Computershare

Notice is hereby given that the following dividends have been declared.

ISSUER	ISSUE	RECORD DATE	PAYABLE DATE	RATE
AG Growth International Inc.	Common	November 29, 2013	December 13, 2013	\$0.20
Alaris Royalty Corp.	Common	November 29, 2013	December 16, 2013	\$0.12
ARC Resources Ltd.	Common	November 29, 2013	December 16, 2013	\$0.10
CAE Inc.	Common	December 16, 2013	December 31, 2013	\$0.06
Colt Corporation	Common	December 2, 2013	December 12, 2013	\$0.08
Freehold Royalties Ltd.	Common	November 30, 2013	December 16, 2013	\$0.14
Killam Properties Inc.	Common	November 29, 2013	December 16, 2013	\$0.04833
Longview Oil Corp.	Common	November 29, 2013	December 16, 2013	\$0.05
Magellan Aerospace Corp.	Common	December 12, 2013	December 31, 2013	\$0.03
Northland Power Inc.	Common	November 29, 2013	December 16, 2013	\$0.09
Open Text Corporation	Common	November 29, 2013	December 20, 2013	\$0.30 USD
PHX Energy Services Corp.	Common	November 29, 2013	December 13, 2013	\$0.07
Pivot Technology Solutions, Inc.	Series A Preferred	November 29, 2013	December 3, 2013	\$0.00394521
Regal Lifestyle Communities Inc.	Common	November 29, 2013	December 13, 2013	\$0.0583
Savanna Energy Services Corp.	Common	November 29, 2013	December 16, 2013	\$0.03
Stella-Jones Inc.	Common	December 2, 2013	December 20, 2013	\$0.05
Sunco Energy Inc.	Common	December 3, 2013	December 24, 2013	\$0.20
Triology Energy Corp.	Common	December 2, 2013	December 16, 2013	\$0.035 & Non-Voting
Veresen Inc.	Common	November 29, 2013	December 23, 2013	\$0.0833
Veresen Inc.	Preferred Series A	December 13, 2013	December 31, 2013	\$0.275
Veresen Inc.	Preferred Series C	December 13, 2013	December 31, 2013	\$0.2432
Vermilion Energy Inc.	Common	November 29, 2013	December 16, 2013	\$0.20

## DIVIDEND RECORD DATE NOTICE

On behalf of the issuer, notice is given of the following dividend record dates:

Issuer	Class	December 2013
Black Diamond Group Limited	Common	December 31, 2013
Crescent Point Energy Corp.	Common	December 31, 2013
Enbridge Corporation	Common	December 5, 2013
Pengrowth Energy Corporation	Common	December 23, 2013
Secure Energy Services Inc.	Common	December 1, 2013
Surge Energy Inc.	Common	December 31, 2013
Total Energy Services Inc.	Common	December 31, 2013
Whitecap Resources Inc.	Common	December 31, 2013



## DIVIDEND NOTICE

On behalf of the issuer, notice is given of the following dividend payment:

Issuer:  
**Renegade Petroleum Ltd.**

Record Date:  
**November 30, 2013**

Payable Date:  
**December 16, 2013**

Payable Rate:  
**\$0.008333**

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advertising@theglobeandmail.com

## LEGALIS

### LEGAL NOTICE

**IN THE MATTER OF THE COMPANIES ACT, 1981 (BERMUDA) ("the Act")**

NOTICE IS HEREBY GIVEN that **BuyFX Ltd.**, a company duly incorporated and existing under the laws of Bermuda, intends to discontinue out of Bermuda and be continued in British Columbia Canada in accordance with the provisions of Section 132(d) of the Act.

## LEGALIS

### NOTICE REGARDING SALES AND SOLICITATION PROCESS OF GROWTHWORKS CANADIAN FUND LTD.

On October 1, 2013, **GROWTHWORKS CANADIAN FUND LTD.** (the "Fund") obtained an initial order under the Companies Creditors Arrangement Act (Canada) (the "CCAA") from the Ontario Superior Court of Justice (Commercial List) (the "Court") in Toronto under Court File Number CV-13-10279-00CL. FFI Consulting Canada Inc. has been appointed by the Court as CCAA monitor (the "Monitor") in those proceedings.

PLEASE TAKE NOTICE THAT, pursuant to a Court order issued on November 18, 2013 (the "SISP Order"), the Fund obtained Court approval to conduct a sale and investor solicitation process (the "SISP") to seek parties interested in purchasing the assets, undertakings and property of the Fund (a "Sale Proposal") and/or parties interested in investing in or refinancing the business of the Fund (an "Investment Proposal"). Pursuant to the SISP, CCC Investment Banking ("CCC") is soliciting Sale Proposals and Investment Proposals from prospective strategic and financial parties and seeks to implement one or a combination of such proposals in respect of the property and the business of the Fund.

The Fund is a labour sponsored venture capital fund that currently has a mature and diversified portfolio consisting primarily of Venture investments made in small and medium size Canadian businesses in both Canada and the USA. The Fund was formed in 1988 with the investment objective of achieving long term appreciation for its Class A shareholders, who are principally retail investors.

Parties interested in this opportunity can obtain additional information regarding the SISP by contacting CCC at:

CCC Investment Banking  
150 King Street West, Suite 2020  
Toronto, Ontario M5H 1J9  
Fax: 416-599-9250  
Attn: Bill Rogers  
brogers@cccinvestmentbanking.com

A copy of the Initial Order, SISP, SISP Order and other public information concerning these CCAA proceedings can be found on the Monitor's Website at <http://ffcandian.ficonconsulting.com/act/>, or may be obtained by contacting the Monitor at: [growthworks@canadianfundltd.com](mailto:growthworks@canadianfundltd.com) or [ficonconsulting.com](mailto:ficonconsulting.com)

## BUSINESS TO BUSINESS

### BUSINESS TO BUSINESS

**Accounting Practices Wanted:** Billing above \$750K and \$300K for GTA and Ottawa respectively. Avoid middleman fee; confidentiality is assured. Contact: [Tim.Chang.tchang@lb-ca.ca](mailto:Tim.Chang.tchang@lb-ca.ca)

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**Profitable Hotel/Restaurant - Sales \$1.6M. 2 hrs north of Toronto. Make an Offer. [ppfsbho@gmail.com](mailto:ppfsbho@gmail.com)**

**RESTAURANTS/BARS Windsor-Casey's grill /Oakville From MacCoop's /London-East Side Manos (2)/Oakville - Sports Grill /Mississauga-restaurant / 416-432-0260**

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# **APPENDIX “D”**

# BIGGEST 1,000 STOCKS

WSJ.com/stocks

**How to Read the Stock Tables**  
The information in this table is derived from the following sources: Prices are from the New York Stock Exchange, Inc. (NYSE), the American Stock Exchange, Inc. (AMEX), the Over-the-Counter Bulletin Board (OTCBB) and the OTC Pink Sheets. The information is provided for informational purposes only and is not intended to be used for trading or investment purposes. The information is not intended to be used for trading or investment purposes. The information is not intended to be used for trading or investment purposes.

Stock	Open	High	Low	Close	Change	Volume	Market Cap	PE Ratio	Dividend Yield
Apple Inc. (AAPL)	145.12	146.50	144.75	145.80	+0.68	15,234,567	745.67B	15.2	0.5%
Microsoft Corp. (MSFT)	31.25	31.75	31.00	31.50	+0.25	12,345,678	312.34B	18.5	0.7%
Amazon.com Inc. (AMZN)	175.00	178.50	173.00	176.25	+1.25	8,765,432	178.90B	22.1	0.3%
Google Inc. (GOOG)	28.50	29.00	28.25	28.75	+0.25	7,654,321	285.43B	20.3	0.4%
Facebook Inc. (FB)	52.00	53.50	51.50	52.75	+0.75	6,543,210	156.78B	25.6	0.2%
Twitter Inc. (TWTR)	14.50	15.00	14.25	14.75	+0.25	5,432,109	14.56B	12.8	0.1%
LinkedIn Corp. (LNKD)	22.00	22.50	21.75	22.25	+0.50	4,321,098	22.00B	15.4	0.3%
Slack Technologies Inc. (SLCK)	18.00	18.50	17.75	18.25	+0.50	3,210,987	18.00B	10.2	0.2%
Dropbox Inc. (DBX)	12.00	12.50	11.75	12.25	+0.50	2,109,876	12.00B	8.5	0.1%
Box.com Inc. (BOX)	10.00	10.50	9.75	10.25	+0.50	1,098,765	10.00B	7.2	0.1%

**NOTICE REGARDING SALES AND SOUTHWEST PROCEEDS OF BROKERS/DEALERS**  
CARDINAL FINANCIAL

In October 2013, Cardinal Financial Corp. ("Cardinal") advised that it had entered into a sales and distribution agreement with the Southwestern Securities Group ("SSG") to sell and distribute Cardinal's common stock. Cardinal is a public company and its common stock is listed on the New York Stock Exchange. Cardinal is a public company and its common stock is listed on the New York Stock Exchange. Cardinal is a public company and its common stock is listed on the New York Stock Exchange.

**THE COMPANIES LAW (AS AMENDED)**  
**NOTICE OF APPOINTMENT OF PROVISIONAL LIQUIDATOR**  
Santech Power Holdings Co., Ltd. (In Provisional Liquidation)  
Grand Court Cause No. FSD 245 of 2013

THE COMPANIES LAW (AS AMENDED) provides that the liquidator of a company may apply to the Grand Court for an order appointing a provisional liquidator. The Grand Court has appointed Santech Power Holdings Co., Ltd. as the provisional liquidator of the Company.

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**WILMINGTON, DELAWARE**

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# APPENDIX “E”

Growthworks Canadian Fund Ltd.  
9 Week Cash Flow Forecast  
CAD \$000

	Week 1 10-Jan	Week 2 17-Jan	Week 3 24-Jan	Week 4 31-Jan	Week 5 7-Feb	Week 6 14-Feb	Week 7 21-Feb	Week 8 28-Feb	Week 9 7-Mar	9 Week Total
Week Ending Cash Inflow	-	-	-	-	2,950	3,200	-	-	294	6,444
Venture Exits and/or Distributions	-	-	-	-	2,950	3,200	-	-	294	6,444
<b>Total Cash Inflow</b>										
Cash Outflow										
Follow on Funding	37	-	-	-	32	-	-	-	31	100
CEO Fees & Expenses	33	-	11	-	-	11	-	11	-	66
Insurance Fees	301	-	-	-	-	-	-	-	-	301
Legal & Financial Advisor Fees	184	40	40	40	140	25	25	25	25	544
Board Fees	-	160	-	-	-	-	-	-	-	160
Other	30	10	1	51	1	1	1	51	1	148
<b>Total Cash Outflow</b>	<b>584</b>	<b>210</b>	<b>52</b>	<b>91</b>	<b>173</b>	<b>37</b>	<b>26</b>	<b>87</b>	<b>58</b>	<b>1,319</b>
Restructuring Costs										
Legal & Professional Fees	260	218	210	200	120	120	120	120	90	1,458
<b>Total Restructuring Fees</b>	<b>260</b>	<b>218</b>	<b>210</b>	<b>200</b>	<b>120</b>	<b>120</b>	<b>120</b>	<b>120</b>	<b>90</b>	<b>1,458</b>
<b>Net Cash Flow</b>	<b>(844)</b>	<b>(428)</b>	<b>(262)</b>	<b>(291)</b>	<b>2,657</b>	<b>3,043</b>	<b>(146)</b>	<b>(207)</b>	<b>147</b>	<b>3,667</b>
Opening Cash Balance	5,392	4,548	4,120	3,858	3,566	6,223	9,266	9,120	8,913	5,392
Net Cash Flow	(844)	(428)	(262)	(291)	2,657	3,043	(146)	(207)	147	3,667
Ending Cash Balance	<b>4,548</b>	<b>4,120</b>	<b>3,858</b>	<b>3,566</b>	<b>6,223</b>	<b>9,266</b>	<b>9,120</b>	<b>8,913</b>	<b>9,059</b>	<b>9,059</b>

- 1 The purpose of this Cash Flow Forecast is to determine the liquidity requirements for Growthworks Canadian Fund Ltd. during the CCAA Proceedings.
- 2 Receipts have been forecast based on expected venture exits and/or distributions from Portfolio Companies.
- 3 Follow on Funding is based on management's estimate of possible requirements.
- 4 Operating expenses are forecast based on historical analysis and estimates from services providers.
- 5 Estimated Restructuring costs are based on projected costs associated with legal and professional fees relating to the CCAA Proceedings.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
GROWTHWORKS CANADIAN FUND LTD.

Court File No: CV-13-10279-00CL

*Ontario*

**SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**THE FIFTH REPORT OF  
FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR**

Osler, Hoskin & Harcourt LLP  
Box 50, 1 First Canadian Place  
Toronto, Ontario, Canada M5X 1B8

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Solicitors for the Monitor

F. 11455r