

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

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.

FACTUM OF INVESTMENT ADMINISTRATION SOLUTION INC.
(MOTIONS RETURNABLE APRIL 22, 2026)

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PART I - INTRODUCTION

1. IAS seeks orders to ensure that it is protected from the intended actions of GrowthWorks Canadian Fund Ltd. (the “**Fund**”), FTI Consulting Canada Inc., its capacity as the Court-appointed Monitor (the “**Monitor**”), and their unnamed third-party service provider (the “**Third Party Service Provider**”) in respect of a planned distribution (the “**Planned Distribution**”) to unitholders of the Fund and the Fund’s subsequent windup and dissolution.

2. Based on the limited information about how the Fund and Monitor intend to effect the distribution and windup, we know that they intend to leave the Fund without any assets, and to distribute those assets in circumstances where errors are likely to occur. In particular, the Fund intends to use stale-dated data to effect the Planned Distribution. The unexplained secrecy around the Third Party Service Provider means it is not clear that it has the capacity or necessary technical expertise to properly effect the Planned Distribution.

3. IAS, as a post-filing supplier to the Fund and as its Transfer Agent, will have no responsibility for the Planned Distribution, or for the Fund’s windup and dissolution. While IAS has protection under its existing contractual arrangements with the Fund, and the existing liability limitation provisions and releases issued by the Court, IAS is likely to be exposed to unrecoverable costs associated with these errors in circumstances where it will not have recourse to the assets of the Fund to make it whole.

4. In these circumstances, IAS asks the Court for relief to protect it from the effects of the Fund’s intended actions. In particular, IAS seeks a modest further amendment to the Amended and Restated Discharge and Dissolution Order, dated December 18, 2024 (the “**ARDDO**”) to confirm that it has no responsibility in relation to the Distribution, over which it has no control.

5. This relief is consistent with the relief already afforded to the Fund and the Monitor, and is consistent with the liability limitations to which they already granted IAS by contract in the IAS Agreement.

6. IAS has performed services pursuant to the IAS Agreement for more than a decade and has continued to play an integral role in these CCAA proceedings. Exposing IAS to liability and future unpaid services for actions that it opposes, performed by parties that are shielded from liability, is unjust, contrary to the policy objectives underlying the CCAA, and would bring the administration of justice into disrepute.

PART II - SUMMARY OF FACTS

THE IAS AGREEMENT

7. The Fund was granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "*CCAA*") on October 1, 2013,¹ and entered into the IAS Agreement with IAS on January 6, 2015.²

8. Pursuant to the IAS Agreement, IAS agreed to act as the Fund's transfer agent (the "**Transfer Agent**") in connection with its 17 funds, including by maintaining fund registers for those funds (the "**Fund Registers**").³ The data in the Fund Registers is the property of the Fund, but the Fund Registers themselves are maintained in IAS's proprietary database and are IAS's

¹ Affidavit of David Chan dated April 21, 2026 ("**Chan Affidavit**"), Motion Record ("**MR**") Tab B, p 45 at [para 7](#), Case Center ("**CC**") F622.

² [Exhibit "1"](#) to the Chan Affidavit, MR Tab B, [p 64](#), CC F641.

³ Chan Affidavit, MR Tab B, p 46 at [paras 8-9](#), CC F623.

property.⁴ The IAS Agreement has been renewed for numerous 3-year terms and is presently set to expire on December 31, 2026.⁵

9. The Fund also has a Specimen Plan which annuitants hold units in, but IAS does not, and has never, administered the Specimen Plan. Concentra Trust (“**Concentra**”) is the bare trustee of the Specimen Plan but the identity of Concentra’s agent, who performs the day-to-day administration of the Specimen Plan, is not known to IAS.⁶

10. Importantly, the IAS Agreement limits IAS’s liability with respect to the services provided pursuant to the IAS Agreement.⁷ These provisions are recreated below:

- (a) 11(a) IAS warrants that the Services will be performed substantially in accordance with the description in Schedule “A”. IAS makes no other warranties or representations, express or implied, with respect to the Services and all warranties of merchantability and fitness for a particular purpose are expressly excluded. IAS also excludes any warranties or representations, express or implied, as to the quality, capabilities, operations, performance or suitability of any third party software, hardware or third party products (including the ability to integrate the same) purchased or used by the CLIENT in connection with the Services and disclaims all liability in connection with the inability of IAS to perform the Services as a result of failures or incompatibility of the third party software, the hardware or third party products.
- (b) 11(b) IAS shall not be liable, in any way, for any indirect, special, incidental, consequential, remote, speculative, exemplary or punitive damages of any kind or type, including but not limited to: (i) damages for business interruption, (ii) damages to reputation or goodwill; and (iii) damages for damaged, lost or corrupted data, irrespective of whether any such damages or expenses arise out of breach of contract, or tort. The parties further agree that IAS’s total liability for any direct damages arising out of this Agreement shall not exceed the sum of fifty thousand dollars in Canada currency (CDN \$50,000) in the aggregate.

⁴ Chan Affidavit, MR Tab B, p 47 at [para 12](#), CC F624.

⁵ Chan Affidavit, MR Tab B, p 46 at [para 8](#), CC F623.

⁶ Chan Affidavit, MR Tab B, p 47 at [para 15](#), CC F624.

⁷ [Exhibit “1”](#) to the Chan Affidavit, MR Tab B, [p 71](#), CC F648.

THE FUND HIRES THE THIRD PARTY SERVICE PROVIDER

11. IAS performed the services covered by the IAS Agreement without complaint for almost ten years, from 2015 to 2024.⁸ Then, in or around January 2025, when IAS and the Fund failed to agree on terms for the provision of certain windup and dissolution services, the Fund engaged an unnamed third party service provider (the “**Third Party Service Provider**”) to make a distribution (the “**Planned Distribution**”).⁹ For unknown reasons, the Fund has never disclosed the identity of the Third Party Service Provider, the services it has been hired to provide, its qualification and expertise, or the terms of its engagement.¹⁰

12. In and around this same time, the Fund also sought and obtained the Amended and Restated Discharge and Dissolution Order (the “**ARDDO**”) that, among other things: (1) authorized the Fund to make the Planned Distribution; (2) approved the dissolution of the Fund and the termination of the CCAA Proceedings; (3) provided the Fund, the Monitor and their Representatives with releases from liability arising in connection with the Fund or the CCAA Proceedings; and (4) discharged the Monitor from duties, obligations and responsibilities, subject to certain limited exceptions.¹¹

13. To be clear, given the definition of Representatives under the ARDDO, which includes “agents”, IAS has the benefit of those existing protections.¹² However, for the reasons set out below, including the lack of intended holdback on the part of the Fund and Monitor, any claims

⁸ Chan Affidavit, MR Tab B, p 51 at [para 28](#), CC F628.

⁹ Chan Affidavit, MR Tab B, p 51 at [para 29](#) and [33](#), CC F628 and F629.

¹⁰ Chan Affidavit, MR Tab B, p 52 at [para 34](#), CC F629.

¹¹ Chan Affidavit, MR Tab B, p 51 at [para 31](#), CC F628; [Exhibit “6”](#) to the Chan Affidavit, MR Tab B, [p 179](#), CC F756.

¹² Chan Affidavit, MR Tab B, p 52 at [para 32](#), CC F629; [Exhibit “6”](#) to the Chan Affidavit, MR Tab B, [p 185](#) at section 3(w), CC F762.

are likely to put IAS to at least the cost of defending those claims, without recourse to the assets of the Fund.

THE FUND REQUESTS DATA EXTRACTS TO EFFECT THE PLANNED DISTRIBUTION

14. Starting in early 2025, the Fund requested that IAS provide it with certain data extracts from the Fund Registers so that the Third Party Service Provider could make the Planned Distribution.¹³ IAS has consistently expressed its concern with this approach.¹⁴

15. IAS's concerns in this regard are addressed in greater detail below, but in short, data extracts are stale-dated snapshots of some of the data contained in the Fund Registers and do not capture updates to the Fund Registers after the value date of the data extracts.¹⁵ If the Planned Distribution is made days or weeks after the value date of the data extracts, it will thus be made on the basis of old information and will result in errors.¹⁶

16. Despite its concerns, IAS provided the Fund with the data extracts in March 2025 (the "**March 2025 Data Extracts**"), which data extracts were updated in August 2025 (the "**August 2025 Data Extracts**").¹⁷ The Planned Distribution could have been made on the basis of these data extracts, but IAS was not and is still not in a position to know what data the Third Party Service Provider needs to make the Planned Distribution.¹⁸ Despite receiving these data extracts, the Fund elected not to make the Planned Distribution at this time.¹⁹

¹³ Chan Affidavit, MR Tab B, pp 52-53 at [paras 35-36](#), CC F629-F630.

¹⁴ Chan Affidavit, MR Tab B, p 61 at [para 68](#), CC F638.

¹⁵ Chan Affidavit, MR Tab B, pp 57-58 at [paras 53-55](#), CC F634-F635.

¹⁶ Chan Affidavit, MR Tab B, pp 57-58 at [paras 53-55](#), CC F634-F635.

¹⁷ Chan Affidavit, MR Tab B, pp 53-54 at [paras 36-37](#) and [41](#), CC F630 and F631; [Exhibit "13"](#) to the Chan Affidavit, MR Tab B, [p 230-245](#), CC F807-F822; [Exhibit "21"](#) to the Chan Affidavit, MR Tab B, [pp 382-389](#), CC F959-F966.

¹⁸ Chan Affidavit, MR Tab B, p 53 at [para 38](#), CC F630.

¹⁹ Chan Affidavit, MR Tab B, p 54 at [para 41](#), CC F631.

17. In November 2025, the Fund requested updates to the August 2025 Data Extracts, as well as certain additional data extracts (together, the “**November 2025 Data Extracts**”).²⁰ Later that month, IAS provided these data extracts to the Fund.²¹ Again, the Planned Distribution could have been made on the basis of the November 2025 Data Extracts.²² And again, the Fund elected not to make the Planned Distribution at this time.²³

18. On March 24, 2026, the Fund wrote to IAS to request a quote for IAS to update the November 2025 Data Extracts (the “**April 2026 Data Extracts**”).²⁴ IAS provided this quote on April 13, 2026 and the Fund accepted the quote on April 15, 2026.²⁵

THE FUND INTENDS TO EFFECT THE PLANNED DISTRIBUTION AND ITS WINDUP AND DISSOLUTION USING THE APRIL 2026 DATA EXTRACTS

19. The Fund now intends to effect the Planned Distribution, and the Fund’s windup and dissolution, on the basis of the forthcoming April 2026 Data Extracts.²⁶ It also appears that there will be up to a 14-day gap between the value date of the April 2026 Data Extracts and the date of the Planned Distribution.²⁷ For this reason, on April 13, 2026 and April 17, 2026, IAS wrote to the Fund and reiterated its concerns with the Fund’s intended actions.²⁸

²⁰ Chan Affidavit, MR Tab B, p 55 at [para 42](#), CC F632; [Exhibit “22”](#) to the Chan Affidavit, MR Tab B, [pp 391-392](#), CC F968-F969.

²¹ Chan Affidavit, MR Tab B, p 55 at [paras 42-43](#), CC F632; [Exhibit “25”](#) to the Chan Affidavit, MR Tab B, [pp 403-417](#), F980-F994.

²² Chan Affidavit, MR Tab B, p 55 at [para 44](#), CC F632.

²³ Chan Affidavit, MR Tab B, pp 56-57 at [paras 49-51](#), CC F633-F634.

²⁴ [Exhibit “31”](#) to the Chan Affidavit, MR Tab B, [pp 473-474](#), CC F1050-F1051.

²⁵ Chan Affidavit, MR Tab B, pp 56-57 at [paras 50-51](#), CC F633-F634; [Exhibit “32”](#) to the Chan Affidavit, MR Tab B, [pp 476-482](#), CC F1053-F1059; [Exhibit “33”](#) to the Chan Affidavit, MR Tab B, [pp 484-485](#), CC F1061-F1062.

²⁶ Chan Affidavit, MR Tab B, p 57 at [para 52](#), CC F634.

²⁷ Chan Affidavit, MR Tab B, p 57 at [para 54](#), CC F634.

²⁸ Chan Affidavit, MR Tab B, p 58 at [para 57](#), CC F635; [Exhibit “32”](#) to the Chan Affidavit, MR Tab B, [pp 476-482](#), CC F1053-F1059; [Exhibit “34”](#) to the Chan Affidavit, MR Tab B, [pp 487-489](#), CC F1064-F1066.

A. THE LAG TIME BETWEEN THE VALUE DATE OF THE DATA EXTRACTS AND THE DATE OF THE DISTRIBUTION CREATES THE RISK OF ERRORS

20. The Planned Distribution will be made with errors if it is effected 14 days after the value date of the April 2026 Data Extracts.²⁹ These errors are likely to include the wrong persons being paid, persons being paid in the wrong amounts, or the wrong amount of tax being reported.³⁰

21. As described above, data extracts of the kind requested by the Fund of IAS are point-in-time snapshots of certain information contained in the Fund Registers.³¹ These snapshots become stale-dated if not acted upon as of or close to the value date of the extract because they do not account for changes to the Fund Registers that occur after the value date.³² There are thousands of such changes per year, and there have been over 2,000 such changes since the value date of the November 2025 Data Extracts less than 6 months ago.³³

22. There would be no such risk if a single party maintained the Fund Registers and effected the Planned Distribution.³⁴ It is not clear why the Fund has not replaced IAS as Transfer Agent, so that a replacement transfer agent could maintain the Fund Registers, effect the Planned Distribution and assist in the Fund's ultimate windup and dissolution.

B. WIND UP AND DISSOLUTION RISKS

23. In order to give effect to the windup and dissolution of the Fund, the Fund will need to update the Fund Registers to reflect the Planned Distribution and then take steps to process the

²⁹ Chan Affidavit, MR Tab B, p 57 at [para 54](#), CC F634

³⁰ Chan Affidavit, MR Tab B, p 59 at [para 63](#), CC F636.

³¹ Chan Affidavit, MR Tab B, p 56 at [para 48](#), CC F633.

³² Chan Affidavit, MR Tab B, p 57 at [para 53](#), CC F634.

³³ Chan Affidavit, MR Tab B, p 57 at [para 53](#), CC F634.

³⁴ Chan Affidavit, MR Tab B, p 57 at [para 55](#), CC F635.

windup.³⁵ The process of updating the Fund Registers is one for the Transfer Agent – currently, IAS. A fund structure like this one, with fractional shares, introduces further risk.³⁶

24. As a result, it is likely that the Fund will ask IAS to process the Fund’s windup and dissolution in the Fund Registers, despite the likely errors associated with the Planned Distribution described above.³⁷ As a preliminary matter, such a request would be an Additional Chargeable Service under the IAS Agreement, but the Fund will not have assets with which to pay IAS. If IAS performed the requested service, IAS would then be maintaining error-filled Fund Registers.³⁸ IAS should not be compelled to do so. Good practice, and common sense, would not permit a Transfer Agent like IAS to introduce results from distributions or other processes to be incorporated into its proprietary systems like that which maintains the Fund Register, without first verifying the integrity of the results of those processes.³⁹

STATEMENT OF ISSUES, LAW & AUTHORITIES

25. IAS asks the Court to consider only one issue: whether IAS should be provided with the liability and other protections it seeks under the ARDDO. The answer to this question is yes.

THE LAW

26. Section 11 of the CCAA provides the Court the broad discretion to make “any order that it considers appropriate in the circumstances”, subject to any restrictions contained in the CCAA, and in accordance with the “remedial objectives of the CCAA, guided by the baseline

³⁵ Chan Affidavit, MR Tab B, pp 57-58 at [paras 53-57](#), CC F634-F635.

³⁶ Chan Affidavit, MR Tab B, pp 57-58 at [paras 53-56](#), CC F634-F635.

³⁷ Chan Affidavit, MR Tab B, pp 60-61 at [para 66](#), CC F637.

³⁸ Chan Affidavit, MR Tab B, p 50 and 60 at [paras 24](#) and [66](#), CC F627 and F637.

³⁹ Chan Affidavit, MR Tab B, p 59 at [para 59](#), CC F636.

considerations of appropriateness, good faith and due diligence”.⁴⁰ This section is the “engine” of the CCAA⁴¹, and the flexibility it provides⁴² allows judges to make orders that respond to the circumstances of each case to meet the specific needs of that case,⁴³ including by balancing the interests of the multiple stakeholders involved in a CCAA proceeding.⁴⁴

27. With respect to the baseline considerations of appropriateness, good faith and due diligence, appropriateness is assessed by reference to the policy objectives underlying the CCAA, and due diligence is justified in part on the basis of ensuring that parties are all on equal footing.⁴⁵ The primary purpose of a liquidating CCAA is to effect the equitable distribution of assets⁴⁶, and the CCAA also aims to maximize creditor recovery and protect shareholders.⁴⁷

28. However, the CCAA provides specific protection for post-filing suppliers like IAS. Among other things, post-filing suppliers cannot be made to provide any services “or other valuable consideration” without providing for immediate payment.⁴⁸

29. Under section 11, forward-looking liability limitation provisions of the kind at issue here are addressed in the context of releases. The Court has broad discretion to provide releases in favour of certain parties involved in CCAA proceedings, based on their participation in those CCAA proceedings.⁴⁹ Often, this occurs at the time that creditors enter into a plan of

⁴⁰ 269354-9186 *Québec Inc. v Callidus Capital Corp*, [2020 SCC 10](#) at paras [49](#), [67](#) and [70](#).

⁴¹ *Companies’ Creditors Arrangement Act*, [R.S.C., 1985, c. C-36](#) (“*CCAA*”), at s.11; 9354-9186 *Quebec Inc. v. Callidus Capital Corp.*, [2020 SCC 10](#), at [para 48](#).

⁴² *Metcalf & Mansfield Alternative Investments II Corp.*, [2008 ONCA 587](#), at [para 44](#).

⁴³ 269354-9186 *Québec Inc. v Callidus Capital Corp*, [2020 SCC 10](#) at [para 48](#).

⁴⁴ *Ernst & Young Inc. v. Essar Global Fund Limited*, [2017 ONCA 1014](#), at [para 103](#).

⁴⁵ 269354-9186 *Québec Inc. v Callidus Capital Corp*, [2020 SCC 10](#) at [paras 49-51](#).

⁴⁶ 269354-9186 *Québec Inc. v Callidus Capital Corp*, [2020 SCC 10](#) at [para 46](#).

⁴⁷ *Ernst & Young Inc. v. Essar Global Fund Limited*, [2017 ONCA 1014](#), at [para 103](#).

⁴⁸ *Companies’ Creditors Arrangement Act*, [R.S.C., 1985, c. C-36](#), at s.11.01(a).

⁴⁹ *U.S. Steel Canada Inc. et al. v The United Steel Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union et al.*, [2023 ONSC 2579](#), at [paras 52-53](#).⁴⁹

arrangement⁵⁰, or in advance of a specific transaction that is being contemplated in the CCAA proceedings,⁵¹ but such releases can be granted in a variety of circumstances in favour of a variety of parties.⁵²

30. When determining whether to grant a release, Courts will look at the following factors:

- (a) whether the party was integrally involved in the CCAA proceedings⁵³;
- (b) whether the claims to be released are rationally connected to the purpose of the plan (or the CCAA proceedings more generally)⁵⁴;
- (c) whether the plan (or more generally, the CCAA proceedings) can succeed without the releases⁵⁵;
- (d) whether the releases are fair, reasonable and not overly-broad⁵⁶; and
- (e) the quality of the anticipated claims against the proposed releasees.⁵⁷

⁵⁰ See for example, *Metcalfe & Mansfield Alternative Investments II Corp., (Re)*, [2008 ONCA 587](#).

⁵¹ See for example, *Tacora Resources Inc. (Re)*, [2024 ONSC 4436](#); *Validus Power Corp. et al. and Macquarie Equipment Finance Limited*, [2024 ONSC 250](#) and *VBI Vaccines Inc v. Ernst & Young Inc. et al.*, [2024 ONSC 6604](#).

⁵² *Re Green Relief Inc.*, [2020 ONSC 6837](#) at [para 23](#); *U.S. Steel Canada Inc. et al. v The United Steel Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union et al.*, [2023 ONSC 2579](#) at [paras 52-53](#), and *Tacora Resources Inc. (Re)*, [2024 ONSC 4436](#), at [para 24](#).

⁵³ *Tacora Resources Inc. (Re)*, [2024 ONSC 4436](#), at [paras 24-25](#); *Re Green Relief Inc.*, [2020 ONSC 6837](#), at [para 27](#), citing *Lydian International Limited (Re)*, [2020 ONSC 4006](#), at [para 54](#)

⁵⁴ *Re Green Relief Inc.*, [2020 ONSC 6837](#), at [para 27](#).

⁵⁵ *Re Green Relief Inc.*, [2020 ONSC 6837](#), at [para 27](#).

⁵⁶ *Re Green Relief Inc.*, [2020 ONSC 6837](#), at [para 27](#).

⁵⁷ *Re Green Relief Inc.*, [2020 ONSC 6837](#), at [paras 28, 35](#).

31. As in most discretionary exercises, some factors are weighted more heavily than others depending on the circumstances of the case, and it is not necessary that each factor apply in order for the relief to be granted.⁵⁸

THE FUND’S INTENDED ACTIONS WILL PREJUDICE IAS IF THE RELIEF IS NOT GRANTED

32. The Fund’s intended actions will likely result in errors in the Planned Distribution, and in the Fund’s windup and dissolution, which could cause harm to the more than 100,000 unitholders, and to more than 130 dealers and brokers.⁵⁹ This has the prospect to give rise to litigation, and because the ARDDO releases the Fund and the Monitor from liability, and the identity of the Third Party Service Provider is not known, these litigants will likely target IAS.

33. Similarly, the ARDDO releases the Monitor from future obligations relating to these CCAA proceedings, and as a result, IAS will likely be asked to address any errors made by the Fund, including because the Fund and Monitor have chosen to not replace IAS as Transfer Agent, and it continues to maintain the Fund Registers pursuant to the IAS Agreement.⁶⁰ This prejudice is again compounded by the fact that the identity of the Third Party Service Provider has not been disclosed, and by the fact that the Fund does not intend to maintain a holdback for possible future services.⁶¹

THE RELIEF SOUGHT BY IAS IS WARRANTED

34. IAS is entitled to be protected from the effects of the Fund’s intended actions. The Court has the jurisdiction to make this order pursuant to section 11 of the *CCAA*, and the order is

⁵⁸ *Re Green Relief Inc.*, [2020 ONSC 6837](#), at [para 28](#).

⁵⁹ Chan Affidavit, MR TAB B, pp 58-59, at [paras 56, 63](#), CC F635, F636.

⁶⁰ Chan Affidavit, MR Tab B, pp 60-61, at [para 66](#), CC F637.

⁶¹ Chan Affidavit, MR Tab B, pp 60-61, at [para 66](#), CC F637.

appropriate at this stage of these CCAA proceedings, in advance of the Planned Distribution and the Fund's windup and dissolution, both of which are critical processes in the lifespan of these CCAA proceedings. These steps are likely to create risk of claims against IAS in circumstances over which it had no control.

35. IAS has been integral to these CCAA proceedings for more than a decade. IAS has agreed to provide the Fund with the April 2026 Data Extracts, so as not to delay the Planned Distribution and the Fund's windup and dissolution, notwithstanding IAS's concerns that the Fund's intended actions will result in errors in those processes. This is consistent with IAS's past actions in providing data extracts to the Fund, upon which IAS would have been able to effect the Planned Distribution, notwithstanding these same concerns. In this regard, the Fund's intended actions cannot occur without IAS's participation.

36. Despite this, it is IAS, and not the Fund or the Monitor, that bears the risks of the Fund's intended actions. The Fund and the Monitor are protected from any liability or future work arising out of the Fund's intended actions by virtue of the provisions of the ARDDO. And the identity of the Third Party Service Provider is not known to any of the parties that may suffer damages as a result of those intended actions.

37. Additionally, those protections IAS has pursuant to the ARDDO may not be clear to potential litigants because IAS is not specifically listed in the ARDDO. Similarly, the protections afforded to IAS pursuant to the IAS Agreement may not be obvious to potential claimants. Accordingly, those protections will not have their intended effect: preventing the commencement of claims by disgruntled unitholders. These protections will also not prevent IAS from being asked,

without compensation, to remedy errors occasioned by the Fund, the Monitor, or any third party service provider.

38. Protecting IAS in the manner sought is consistent with the objectives of section 11 of the CCAA, and of the CCAA more generally. Section 11 permits the Court to balance the interests of stakeholders, including IAS, and to distribute the Fund's remaining assets in a manner that is equitable, again, including to IAS. IAS should not be exposed to liability because of the Fund's intended actions that it opposes.

39. Granting the relief sought will not prejudice any other party. IAS already has important liability protections. And disregarding IAS's interests, while actively protecting the Fund and the Monitor from the consequences of their own actions would be contrary to the aims of the CCAA and would bring the administration of justice into disrepute.

40. IAS has acted diligently, including by consistently addressing its concerns with the Fund's intended actions, asking for relief from the Fund, and when it became clear that the Fund intended to proceed with the Planned Distribution without consenting to that relief, by bringing this motion.

41. IAS has also acted in good faith, including by providing the March, August and November 2025 Data Extracts upon which the Planned Distribution could have been made. Any decision to delay the Planned Distribution was that of the Fund. This delay was certainly not caused by the past efforts by IAS to clarify for the Fund the nature of the Fund's data extraction requests. Those were instead intended to understand what was being asked of IAS, and to communicate to the Fund that certain of its past requests were not possible.

42. The relief sought by IAS is fair, reasonable and narrowly tailored. It is also consistent with the existing protections afforded to the Fund, the Monitor, and IAS, and with the existing protections afforded to IAS pursuant to the IAS Agreement.

PART III - ORDER REQUESTED

43. For these reasons, IAS requests that this Court grant the incremental amendments to the ARDDO to clarify the scope of IAS's liability protections, as set out in its proposed draft order.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 21st day of April, 2026.



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SCHEDULE “A”

LIST OF AUTHORITIES

1. *269354-9186 Québec Inc. v Callidus Capital Corp*, [2020 SCC 10](#)
2. *Ernst & Young Inc. v. Essar Global Fund Limited*, [2017 ONCA 1014](#)
3. *Metcalfe & Mansfield Alternative Investments II Corp.*, [2008 ONCA 587](#)
4. *Re Green Relief Inc.*, [2020 ONSC 6837](#)
5. *Tacora Resources Inc. (Re)*, [2024 ONSC 4436](#)
6. *U.S. Steel Canada Inc. et al. v The United Steel Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union et al.*, [2023 ONSC 2579](#)
7. *Validus Power Corp. et al. and Macquarie Equipment Finance Limited*, [2024 ONSC 250](#)
8. *VBI Vaccines Inc v. Ernst & Young Inc. et al.*, [2024 ONSC 6604](#)

I certify that I am satisfied as to the authenticity of every authority.

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).

Date April 21, 2026



Signature

SCHEDULE “B”

TEXT OF STATUTES, REGULATIONS & BY - LAWS

Companies’ Creditors Arrangement Act, R.S.C., 1985, c. C-36

11. Despite anything in the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

11.01. No order made under section 11 or 11.02 has the effect of

- (a) prohibiting a person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided after the order is made; or
- (b) requiring the further advance of money or credit.

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.

Court File No. CV-13-00010279-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

**FACTUM OF INVESTMENT ADMINISTRATION
SOLUTION INC.**

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RCP-E 4C (September 1, 2020)