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

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 PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO GROWTHWORKS CANADIAN FUND LTD.

Applicant

MOTION RECORD

(Returnable December 18, 2024)

December 11, 2024

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TO: SERVICE LIST

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

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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT,* R.S.C. 1985, c. C-36, AS AMENDED
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Tab 1

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

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AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO GROWTHWORKS CANADIAN FUND LTD.

NOTICE OF MOTION
(Stay Extension and Amendment Order)
(Returnable December 18, 2024)

GrowthWorks Canadian Fund Ltd. (the "**Applicant**" or the "**Fund**") will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) on December 18, 2024 at 12:00 p.m., or as soon after that time as the motion can be heard, by judicial videoconference via Zoom at Toronto, Ontario.

THE PROPOSED METHOD OF HEARING: This motion is to be heard orally.

THE MOTION IS FOR:

1. An Amended and Restated Discharge and Dissolution Order (the "**ARDDO**"), among other things:

   (a) abridging the time for service of the Applicant's Motion Record and the Monitor's Thirty-First Report, validating service and the notice provided to all parties, including of the Fund's intention to surrender its remaining investments, and dispensing with further service and notice thereof;

(b) extend the Stay Period and the Stay Extension Period up to the CCAA Termination Time;

(c) granting certain relief related to the liquidation of the Applicant's portfolio;

(d) approve certain amendments to paragraph 21 of the Distribution and Discharge Order to approve and authorize the dissolution of the Applicant pursuant to the CCAA and section 217 of the *Canada Business Corporations Act* (the "**CBCA**");

(e) providing for the release of the Monitor, the Applicant and other representatives, including confirming that the releases apply to the Applicant's decisions to surrender the remaining assets of the Applicant;

(f) amend the Distribution and Discharge Order to approve a minimum Distribution amount of $5;

(g) seal the Confidential Exhibits "1" and "2" to this Affidavit (the Crimson Capital Report and IAS Agreement, as described below);

(h) approve and authorize the Applicant to enter into the IAS Agreement and an extension of the term of the Second Amended and Restated IAA (each as defined below) to and including the CCAA Termination Time, and,

(i) such other relief as counsel may request and this Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. The Fund is a labour-sponsored venture capital fund with a portfolio of investments consisting primarily of minority equity interests in small and midsize private Canadian companies

(the "**Portfolio Companies**"). It is incorporated under the *Canada Business Corporations Act* (the "**CBCA**").

2. The purpose of this CCAA proceeding has been to allow for the time and space for the Fund to allow for an orderly realization of its interests in private companies. Since the investments of the Fund are not liquid, the proceedings have required a longer than usual time period to allow the Fund to wait for and identify realization opportunities for these illiquid investments.

3. The strategy of pursuing an orderly liquidation of the Fund's investment portfolio has been successful. The Fund has divested its interest in all but a small number of remaining Portfolio Companies, generating proceeds that enabled it to satisfy all of the secured and unsecured creditor claims against it.

4. The Fund has continued to work diligently with the investment advisor, Crimson Capital Inc. ("**Crimson Capital**"), to realize on the remaining investment portfolio and take steps to progress towards a distribution to shareholders.

5. On January 19, 2023, a Distribution, Termination and Discharge Order was obtained (the "**Distribution and Discharge Order**"), which, among other things:

(a) extended the Stay Period to the earlier of: (i) December 31, 2024; and (ii) the CCAA Termination Time.

(b) authorized one or more distributions to the holders of the Class "A" and Class "B" shareholders of the Applicant;

(c) authorized the Monitor to file the Monitor's CCAA Completion Certificate, which will designate the "**CCAA Termination Time**", upon the Fund concluding the liquidation of its investment portfolio, paying all creditor claims, making distributions to shareholders and otherwise completing all matters to be attended to in connection with the CCAA Proceedings to the satisfaction of the Monitor;

(d) provided that, as of the CCAA Termination Time:

(i) the CCAA Proceedings will be terminated;

(ii) the Applicant will be dissolved without any further act or formality;

(iii) the Monitor will be discharged and released from its duties, obligations and responsibilities; and

(iv) the current and former directors, officers and other Representatives (as defined in the Distribution and Discharge Order) of the Fund, the Monitor and the Monitor's Representatives (as defined in the Distribution and Discharge Order), will be released from all claims arising in connection with Fund or the CCAA Proceedings.

Various Remaining Issues to be Addressed

2. While the Fund had intended to have all realization steps, a distribution, and dissolution completed prior to the current stay expiry date of December 31, 2024, the Fund has been addressing various issues that have arisen. This includes a small number of issues that remain to be addressed, which may impact the timing of the distribution, including:

(a) obtaining the necessary consent of Manitoba Finance to complete a wind-up;

(b) conclusion of the Canada Post strike to effect the distribution, which will occur by mail; and,

(c) obtaining any necessary approvals from the Canada Revenue Agency related to the wind-up.

3. In addition, the Fund has been addressing certain other issues that have arisen in relation to the distribution and dissolution for which it is seeking relief from the Court at this time, including:

(a) Corporations Canada language – Corporations Canada objected to the Fund relying upon the Distribution and Discharge Order to dissolve on the basis that they were of the view there was insufficient clarity provided in the Distribution and Discharge Order regarding the provisions of the Canada Business Corporations Act that would apply to the dissolution. The Fund recently reached an agreement with Corporations Canada and now seeks revised language in the ARDDO to refer to dissolution under section 217 of the CBCA;

(b) IAS Agreement – the Fund seeks Court approval of an agreement with Investment Administration Solution Inc. ("**IAS**"), which is in the process of being finalized with IAS, for IAS to provide shareholder administration services to assist with the wind-up; and

(c) Crimson Capital Investment Advisor Agreement ("**IAA**") – the Fund seeks approval to extend the term of the Second Amended and Restated IAA with the Fund's investment advisor to assist with the remaining investments (described below).

Remaining Investments and Anticipated Distribution

6. With respect to the majority of the remaining investments, the Fund has concluded that there is no realistic opportunity to realize on these investments in the near future relative to factors such as the estimated value and, or, anticipated costs of realizations. As a result, the Fund intends to surrender its interest in these investments and, subject to completion of the remaining steps described above, make a distribution to shareholders on or about March 31, 2025.

7. With respect to the Fund's investment in one company (the "**Remaining Investment**"), Crimson Capital has advised that the private company has recently begun a sales process.

8. Given the length of these CCAA Proceedings and the lack of any certainty regarding the prospects of any value to be obtained from the sale process, the Fund still expects to surrender its interest in this investment on or about March 31, 2025. However, since it is necessary to complete various additional steps as outlined above prior to a distribution and given that the newly launched sales process may indicate a near-term potential for value realization in respect of the Remaining Investment, the Fund intends to continue to review this investment with Crimson Capital and the Monitor prior to March 31, 2025.

9. At this time, assuming no further realizations in respect of the Remaining Investment, it is anticipated that distributions to shareholders will be approximately $40, , assuming the shareholder holds only one series of Class A shares of the Fund and no further value is realized in respect of the Remaining Investment.

Stay Extension

10. Since the precise timing of the remaining steps and distribution is unknown, the Fund seeks to extend the stay of proceedings to the CCAA Termination Time, which is the date on which the Monitor will files its certificate confirming that all matters to be attended to in relation to the CCAA Proceedings, including the distribution, have been concluded.

11. This extension will help to reduce costs and maximize the amount available for distribution to shareholders, by obviating the need for a further stay extension motion and accompanying costs.

12. The proposed stay extension is appropriate in the circumstances, including because: the distribution is anticipated in the near future but the precise date is uncertain; the shareholders will not suffer material prejudice from extension as the intention continues to be to make the distribution on or before March 31, 2024 if possible; the proposed stay extension will minimize process costs; the Monitor remains in place and can report to the Court and stakeholders as needed; and, the Fund has acted and continues to act in good faith and with due diligence and has sufficient liquidity to meet its obligations.

Sealing of Confidential Exhibits

13. The Fund seeks to seal two confidential exhibits until further order of the Court: (i) the IAS Agreement, which contains details regarding the pricing of the shareholder administration services provider; and, (ii) the Crimson Capital Report, which contains details regarding Crimson Capital's particularized estimates of the value that could be realized from each of the Fund's remaining investments, together with details regarding the investments in these private companies.

Notice & Release

14. The Fund has will provide notice of this hearing and the Fund's intention to surrender its remaining investments through, among other things, notice to the service list, posting the motion materials on the website of the Monitor, and a press release. The Fund seeks approval of this notice process and clarity that the releases in the Distribution and Discharge Order apply to the Fund's decisions to surrender the remaining assets, including if a realization opportunity for the companies underlying such investments subsequently arises.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

(a) Affidavit of C. Ian Ross sworn December 11, 2024; and

(b) The Thirty-First Report of the Monitor, to be filed; and

(c) Such further and other materials as counsel may advise and this Honourable Court may permit.

December 11, 2024

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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-13-10279-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

NOTICE OF MOTION

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GrowthWorks Canadian Fund Ltd.

Tab 2

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

ONTARIO
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(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 PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO GROWTHWORKS CANADIAN FUND LTD.

AFFIDAVIT OF C. IAN ROSS
(sworn December 11, 2024)

I, C. Ian Ross, of the Town of Collingwood, in the Province of Ontario, MAKE OATH AND SAY:

INTRODUCTION

1. I am the Chairman of GrowthWorks Canadian Fund Ltd. (the "**Fund**" or the "**Applicant**"), the applicant in these proceedings. I am the sole director and the interim chief executive officer of the Fund. In that role, I am responsible for the daily operations of the Fund. As such, I have personal knowledge of the facts to which I depose, except where I have indicated that I have obtained facts from other sources, in which case I believe those facts to be true.

2. Any capitalized terms not otherwise defined herein have the have the same meaning(s) as ascribed to such terms in the Affidavit of C. Ian Ross dated December 2, 2022 attached hereto as **Exhibit** "**A**" (the "**First Ross Affidavit**").

3. I make this affidavit in support of the motion by the Fund for an Amended and Restated Discharge and Dissolution Order (the "**ARDDO**"), substantially in the form of the draft order

included at Tab 3 of the Motion Record of the Fund, amending and restating the Distribution and Discharge Order (as defined below) among other things:

(a) abridge service of the motion materials, validating service and the notice provided to all parties, including of the Fund's intention to surrender its remaining investments, and dispensing with further service and notice thereof; extend the Stay Period and the Stay Extension Period up to the CCAA Termination Time;

(b) approve certain amendments to paragraph 21 of the Distribution and Discharge Order to approve and authorize the dissolution of the Applicant pursuant to the CCAA and section 217 of the *Canada Business Corporations Act* (the "**CBCA**");

(c) provide for the release of the Monitor, the Applicant and their Representatives (as defined below), including confirming that the releases apply to the Applicant's decisions to surrender the remaining assets of the Applicant;

(d) amend the Distribution and Discharge Order to approve a minimum Distribution amount of $5;

(e) seal the Confidential Exhibits "1" and "2" to this Affidavit (IAS Agreement and the Crimson Capital Report as described below);

(f) approve and authorize the Applicant to enter into the IAS Agreement and an extension of the term of the Second Amended and Restated IAA (each as defined below) to and including the CCAA Termination Time; and,

(g) such other relief as counsel may request and this Court may deem just.

BACKGROUND

4. The Fund is a labour-sponsored venture capital fund with a portfolio of investments consisting primarily of minority equity interests in small and midsize private Canadian companies (the "**Portfolio Companies**"). It is incorporated under the CBCA.

5. The purpose of this CCAA proceeding has been to allow for the time and space for the Fund to allow for an orderly realization of its interests in portfolio investments. Since the investments of the Fund are primarily not liquid, the proceedings have required a longer than usual time period to allow the Fund to wait for and identify realization opportunities for these illiquid investments.

6. The Fund and its investment advisor, Crimson Capital Inc. ("**Crimson Capital**") have actively sought out opportunities to liquidate the Fund's remaining assets to maximize value since 2014.

7. The strategy of pursuing an orderly liquidation of the Fund's investment portfolio has been successful. At the commencement of the CCAA Proceedings, the Fund held venture investments in 71 Portfolio Companies. The Fund has divested its interest in all but a small number of remaining Portfolio Companies. The Fund has received net proceeds from investment portfolio dispositions of approximately $50.0 million plus cash balances on hand or recovered from third parties of approximately $7 million for a total of $57 million in proceeds, which has enabled it to satisfy all of the secured and unsecured creditor claims against it (other than current claims for professional fees in the ordinary course).

8. Since satisfying the creditor claims, the Fund has continued to work diligently with Crimson Capital, to realize on the remaining investment portfolio, satisfy its liabilities, and take steps to progress towards a distribution to shareholders.

9. On January 19, 2023, the Fund obtained a Distribution, Termination and Discharge Order was obtained (the "**Distribution and Discharge Order**"), which, among other things:

(a) extended the Stay Period to the earlier of: (i) December 31, 2024; and (ii) the CCAA Termination Time.

(b) authorized one or more distributions to the holders of the Class "A" and Class "B" shares of the Applicant;

(c) authorized the Monitor to file the Monitor's CCAA Completion Certificate, which will designate the "**CCAA Termination Time**", upon the Fund concluding the liquidation of its investment portfolio, paying all creditor claims, making distributions to shareholders and otherwise completing all matters to be attended to in connection with the CCAA Proceedings to the satisfaction of the Monitor;

(d) provided that, as of the CCAA Termination Time:

(i) the CCAA Proceedings will be terminated;

(ii) the Applicant will be dissolved without any further act or formality;

(iii) the Monitor will be discharged and released from its duties, obligations and responsibilities; and

(iv) the current and former directors, officers and other Representatives (as defined in the Distribution and Discharge Order) of the Fund, the Monitor and the Monitor's Representatives (as defined in the Distribution and Discharge Order), will be released from all claims arising in connection with Fund or the CCAA Proceedings.

10. Attached hereto as **Exhibit "B"** is a copy of the Distribution and Discharge Order.

VARIOUS REMAINING ISSUES TO BE ADDRESSED

11. While the Fund had intended to have all realization steps, a distribution, and dissolution completed prior to December 31, 2024, the Fund has been addressing various issues that have arisen.

12. This includes a small number of issues that remain to be addressed before terminating the CCAA Proceedings, which may impact the timing of an anticipated distribution to the Fund's Class "A" and Class "B" shareholders, including:

(a) **Obtaining Consent of Manitoba Finance**: The Fund is still in the process of obtaining the necessary consent of Manitoba Finance to complete a wind-up. This consent has been requested from Manitoba Finance but has not yet been obtained because of ongoing discussions relating to potential payments outstanding that must be resolved;

(b) **Conclusion of the Canada Post strike:** The Fund has approximately 115,250 Class A shareholders. Given the large number of shareholders and the information historically maintained by the Fund's transfer agent (consisting of mailing

addresses only and not bank account or electronic payment details), any distribution will necessarily occur by mail. Any other method of distribution is either not practical or not economically viable; and,

(c) **Obtaining CRA Approvals**: The Applicant requires additional time to obtain any necessary approvals from the Canada Revenue Agency related to the wind-up.

13. In addition, the Fund has been addressing certain other issues that have arisen in relation to the distribution and dissolution for which it is seeking relief from the Court at this time, including:

(a) Negotiations with Corporations Canada;

(b) Revisions to the agreement with Investment Administration Solutions Inc. ("**IAS**"), which provides shareholder administration services; and

(c) An extension of the Second Amended and Restated IAA with Crimson Capital.

14. These issues and the relief requested on this motion are described in turn below.

A. Corporations Canada Resolution

15. While the Distribution and Discharge Order authorized the Fund to dissolve without any further act or formality, Corporations Canada objected to the Fund relying upon the Distribution and Discharge Order to dissolve on the basis that they were of the view that there was insufficient clarity provided in the Distribution and Discharge Order regarding the provisions of the CBCA (being the applicable corporate statute governing the Fund) that would apply to the dissolution.

16. The Fund had a number of discussions with representatives of Corporations Canada to resolve this issue and has recently reached an agreement on certain changes to the language to be requested in the ARDDO that will satisfy Corporations Canada's objections. In particular, the Fund

is seeking the following amended language to paragraph 21 of the Distribution and Discharge Order:

> 23. ~~21.~~ **THIS COURT ORDERS** pursuant to the CCAA and section 217 of the Canada Business Corporations Act that, from and after the CCAA Termination Time, (A) the Applicant shall be dissolved without any further act or formality, including any approval, consent or authorization of any shareholder or other security holder of the Applicant or any Governmental Authority, (B) that the Applicant is authorized to file with the appropriate Governmental Authority such articles, agreements or other documents of dissolution for the Applicant to the extent required by Applicable Law, and (C) the Director appointed under the Canada Business Corporations Act is hereby authorized and directed to (i) issue a certificate of dissolution in respect of the dissolution of the Applicant pursuant to this Order upon receipt from or on behalf of the Applicant of a copy of this Order and the Monitor's CCAA Completion Certificate filed with the Court; (ii) date the certificate of dissolution as of the day the Director receives a copy of this Order and the Monitor's CCAA Completion Certificate filed with the Court; (iii) record the date of receipt of this Order and the Monitor's CCAA Completion Certificate filed with the Court; (iv) send the certificate of dissolution, or a copy, image or photographic, electronic or other reproduction of the certificate of dissolution, to the Applicant or its agent or the Monitor; and (v) publish a notice of the issuance of the certificate of dissolution in a publication generally available to the public.

B. IAS Agreement

17. As the CCAA Proceedings have progressed over several years, it is possible that changes in the registration details of a Class A Shareholder may have occurred without those changes being reflected on the Fund's register of Class A Shareholders, including as a result of Class A Shares having devolved as a consequence of the death of a Class A Shareholder.

18. The Fund has sought assistance from the shareholder administration services provider, IAS, to help to ensure that any notice or distribution by the Fund to Class A Shareholders in connection with the proposed dissolution is properly given or made.

19. The Fund is working with IAS and the Monitor to finalize a wind-up services agreement (the "**IAS Agreement**") to assist with the distribution and other services required for the Fund's wind-up. Attached hereto as **Confidential Exhibit "1"** is the current version of the IAS Agreement.

20. The Monitor, Fund, and IAS continue to progress towards the final form of the IAS Agreement. The Fund seeks authority to enter into, and approval of, the IAS Agreement in the form attached, with any such changes as the Monitor may approve in writing in advance. The Monitor has been made a party to the IAS Agreement so that it can review, authorize, and enforce the IAS Agreement.

C. Second Amended and Restated IAA

21. In order to maintain the continuity of Crimson Capital's efforts to realize on the Fund's investment portfolio, the Fund entered into an investment advisor agreement with Crimson Capital on December 8, 2015 (the "**Crimson Capital IAA**") whereby the Fund retained Crimson Capital directly to provide investment advisory and other services. As detailed below, the Crimson Capital IAA has been amended and extended on several occasions and currently expires on December 31, 2024.

22. Crimson Capital remains engaged in the orderly liquidation of the Applicant through an Amended and Restated Investment Advisor Agreement (the "**Second Amended and Restated**

IAA"), which the Court authorized the Fund to enter on March 22, 2019 pursuant to the Stay Extension Order of the Honourable Justice Hainey (the "**March 22, 2019 Stay Extension Order**"). A copy of the Second Amended and Restated IAA Agreement is attached hereto as **Exhibit "C"**.

23. The terms of the Second Amended and Restated IAA initially expired on December 31, 2019. Pursuant to section 8.1 of the Second Amended and Restated IAA Agreement, the Fund may, upon mutual agreement of the Fund and Crimson Capital, extend the term.

24. On each of December 18, 2019, September 22, 2020, June 29, 2021 March 30, 2022, and January 19, 2023, this Court authorized the Fund to extend the term of the Second Amended and Restated IAA and ordered that paragraphs 4 to 7 of the March 22, 2019 Stay Extension Order continued to apply during the extended term. On these occasions, the Fund entered into an amending agreement extending the term.

25. The term of the Second Amended and Restated IAA Agreement is currently set to expire on December 31, 2024. As Crimson Capital is continuing to seek out opportunities to liquidate a Remaining Investment (described below), the board of directors of the Fund has determined that it would be in the best interests of the Fund and its stakeholders to extend the term of the Second Amended and Restated IAA until the CCAA Termination Time, which mirrors the length of the stay extension sought.

REMAINING INVESTMENTS AND ANTICIPATED DISTRIBUTION

26. The Fund continues to hold investments in a number of private companies. Attached hereto as **Confidential Exhibit "2"** is the most recent report from Crimson Capital (the "**Crimson Capital Report**").

27. With respect to the majority of the remaining investments, the Fund has concluded that there is no realistic opportunity to realize on these investments in the near future relative to factors such as the estimated value and, or, anticipated costs of realizations. As a result, the Fund intends to surrender its interest in these investments and, subject to completion of the remaining steps described above, make a distribution to shareholders on or about March 31, 2025.

28. With respect to the Fund's investment in one company (the "**Remaining Investment**"), Crimson Capital has advised that the private company has recently begun a sales process.

29. Given the length of these CCAA Proceedings and the lack of any certainty regarding the prospects of any value to be obtained from the sale process, the Fund nevertheless still expects to surrender its interest in this investment on or about March 31, 2025. However, since it is necessary to complete various additional steps as outlined above prior to a distribution and given that the newly launched sales process may indicate a near-term potential for value realization in respect of the Remaining Investment, the Fund intends to continue to review this investment with Crimson Capital and the Monitor prior to March 31, 2025.

30. At this time, assuming no further realizations in respect of the Remaining Investment, it is anticipated that distributions to shareholders will be approximately $40, assuming the shareholder holds only one series of Class A shares of the Fund and no further value is realized in respect of the Remaining Investment.

STAY OF PROCEEDINGS

31. The Fund is seeking to extend the stay of proceedings to the date on which the Monitor files its certificate setting forth the Monitor's determination of the CCAA Termination Time

rather than imposing a defined date for the stay extension. The Fund believes this is a sensible approach considering:

(a) These CCAA Proceedings are nearing the end but the exact date of a distribution remains subject to a few final contingencies, making the precise timing for the end of these proceedings unclear;

(b) The Fund wishes to minimize costs in order to maximize distributions to shareholders, and believes that it would be unhelpful to require any additional stay extension motion in the event that the distribution is delayed;

(c) The Monitor remains in place and can report to the Court as needed in respect of any changes or in the event that the distribution is materially delayed or subject to any material changes;

(d) The Distribution and Discharge Order provides that cheques will be cancelled if they are returned undelivered or not cashed within 6 months. If cheques are cancelled, this will result in cash that will either be subject to an additional distribution or donation to a charity, in accordance with the Distribution and Discharge Order. Accordingly, there may be additional steps to complete after the distribution that create further uncertainty regarding the precise end of the CCAA proceedings;

(e) All existing secured and unsecured creditor claims have been resolved and paid; and,

(f) Holders of Class A Shares will not suffer any material prejudice from the delay. Based on the estimated value of the liquidated assets of the Fund to be distributed, the distribution to each shareholder is anticipated to be approximately $40,

> assuming the shareholder holds only one series of Class A shares of the Fund and no further value is realized in respect of the Remaining Investment.

32. The last time the Fund was before the Court seeking an extension of the Stay Period was on January 19, 2023. Justice Penny had granted the Stay Extension, and noted in his endorsement, attached hereto as **Exhibit "D"**:

> I am satisfied that the stay extension is warranted. Progress is being made. The end is in sight. The additional time being requested is not unreasonable, given evidence of the reasonable prospect of further material recoveries for relatively little addition cost. I am also satisfied that the dissolution order and orders terminating the CCAA proceedings are warranted, given the limited remaining tasks.

33. The end remains in sight. There is little added cost and no changes to the administration costs being sought on this motion. The Fund requires an extension to the Stay Period in order to ensure that it is able to address the remaining issues described, complete the realization or surrender process, then distribute its available cash to shareholders in an equitable manner in accordance with its articles, and then wind-up its operations and dissolve in accordance with Corporations Canada's requirements.

34. As described herein, the Fund has acted and continues to act in good faith and with due diligence. Among other things:

(a) the Fund has continued to engage Crimson Capital to complete an orderly liquidation process; and,

(b) the Fund has been actively addressing various issues that have arisen relating to the final investments and the distribution and dissolution process, as described herein; and

(c) the Fund continues to diligently progress towards a distribution and dissolution in the near future.

35. I understand that a cashflow forecast covering the proposed extension of the Stay Period will be appended to the Monitor's Thirty-First Report, to be filed (the "**Thirty-First Report**") that will demonstrate the Fund has sufficient liquidity to meet its obligations through to the end of the extension of the Stay Period.

SEALING OF CONFIDENTIAL EXHIBITS

36. The Fund is seeking an order to seal two confidential exhibits until further order of the Court: (i) the IAS Agreement, which contains details regarding the pricing of the shareholder administration services provider; and, (ii) the Crimson Capital Report, which contains details regarding Crimson Capital's particularized estimates of the value that could be realized from each of the Fund's remaining investments, together with details regarding the investments in these private companies.

37. The Fund is seeking an order to seal the Confidential Exhibit 1 until further order of the Court because it contains confidential commercially sensitive information regarding IAS' contracting practices, such as the pricing model. Given the Monitor's involvement and the prejudicial effects of publicizing the IAS Agreement, I believe that the IAS Agreement should be kept under seal subject to a further order of the Court.

38. Confidential Exhibit 2 contains details regarding Crimson Capital's particularized estimates of the value that could be realized from each of the Fund's remaining material investments, together with details regarding the investments in these private companies. The disclosure of the particularized, detailed information would be prejudicial to the Fund's ongoing efforts to realize on such investments and maximize value, if possible. As such, I believe it is appropriate to seal Confidential Exhibit 2, object to a further order of the Court.

NOTICE & RELEASE

39. Given the amount of time required and the associated cost, together with the current postal strike, it would not be practicable or cost-efficient to provide notice of this motion by mail or similar means to each of the individual shareholders of the Fund. As noted above, the Fund has 115,250 Class A shareholders. Accordingly, the Fund intends to provide notice of this motion by:

(a) serving its motion materials on the service list in the CCAA Proceedings;

(b) arranging for its motion materials to be posted on the website established by the Monitor in respect of the CCAA Proceedings (the "**Monitor's Website**"); and

(c) issuing a press release in the form attached hereto as **Exhibit "E"**, describing the background to the Fund's motion and the relief being sought and including a link to the Monitor's Website for accessing the motion materials.

40. I believe that the above measures are the most practical and cost-effective means of providing notice of this motion to the shareholders of the Fund.

41. The Fund has made clear its position regarding surrendering its interest in remaining investments in a number of court materials filed. In addition, this has been set out in press releases, including most recently the press release dated December 11, 2024, attached hereto as Exhibit "E", which is intended to provide notice to the Fund's shareholders.

42. One purpose of this press release was to provide notice to shareholders of the Fund's intention to surrender its interest in remaining investments and advise that this would result in the Fund receiving no consideration for such investments notwithstanding the potential long-term value of the investments, which may be material.

43. In the attached draft ARDDO, the Fund seeks clarity that sufficient notice has been provided and that the releases in the Distribution and Discharge Order apply to the Fund's decisions to surrender the remaining assets, including if a realization opportunity for the companies underlying such investments subsequently arises.

CONCLUSION

44. For the reasons set out above, the Fund respectfully requests that the Court issue the Amended and Restated Discharge and Dissolution Order.

SWORN BEFORE ME VIA VIDEOCONFERENCE, the affiant being located in the City of Collingwood, in the Province of Ontario, Canada and the Commissioner being located in the City of Toronto, in the Province of Ontario, Canada on December 11, 2024, in accordance O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:
Meena Alnajar
A508ACD91F1F426...

A Commissioner for taking Affidavits
Name: Meena Alnajar

Signed by:
C. Ian Ross
C60CABCFEA99449...

C. Ian Ross

Tab A

This is Exhibit "**A**" referred to in the
Affidavit of **C. Ian Ross**
sworn before me December 11, 2024

DocuSigned by:
Meena Alnajar
A508ACD91F1F426...

A Commissioner for taking Affidavits (or as may be)
Meena Alnajar LSO #: 89626N

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

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 PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO GROWTHWORKS CANADIAN FUND LTD.

AFFIDAVIT OF C. IAN ROSS
(sworn December 2, 2022)

I, C. Ian Ross, of the Town of Collingwood, in the Province of Ontario, MAKE OATH AND SAY:

INTRODUCTION

1. I am the Chairman of GrowthWorks Canadian Fund Ltd. (the "**Fund**"), the applicant in these proceedings. I am a director and the interim chief executive officer of the Fund. In that role, I am responsible for the daily operations of the Fund, acting under the oversight of the Fund's board of directors (the "**Board**"). As such, I have personal knowledge of the facts to which I depose, except where I have indicated that I have obtained facts from other sources, in which case I believe those facts to be true.

2. I make this affidavit in support of the motion by the Fund for an order (the "**Distribution, Termination and Discharge Order**"), substantially in the form of the draft order included at Tab 3 of the Motion Record of the Fund, among other things (and with capitalized terms as defined below):

(a) extending the Stay Period until and including the earlier of: (i) December 31, 2024; and (ii) the CCAA Termination Time;

(b) granting certain relief related to the liquidation of the Applicant's portfolio;

(c) authorizing the making of distributions to Class "A" shareholders and Class "B" shareholders of the Applicant;

(d) providing releases and discharges in favour of the Monitor, the Representatives of the Monitor, and the Representatives of the Applicant;

(e) at the CCAA Termination Time, dissolving the Applicant, discharging the Monitor, terminating the CCAA Proceedings and discharging the Administration Charge and Directors' Charge;

(f) sealing the Confidential Exhibit; and

(g) approving an extension to the Second Amended and Restated IAA to and including the last day of the Stay Extension Period.

BACKGROUND

3. The Fund is a labour-sponsored venture capital fund with a portfolio of investments consisting primarily of minority equity interests in small and midsize private Canadian companies (the "**Portfolio Companies**"). The Fund is a corporation incorporated under the *Canada Business Corporations Act* (the "**CBCA**"). The Fund is a labour-sponsored investment fund ("**LSIF**") for purposes of applicable tax laws and a "reporting issuer" in each of the provinces and territories of Canada for purposes of applicable securities laws.

Formation and Management of the Fund Prior to CCAA Proceedings

4. The Fund was formed in 1988 for the purpose of raising capital from retail investors by way of annual prospectus offerings of separate series of Class A shares (the "**Class A Shares**") of the Fund. The Fund would, in turn, use the proceeds of those offerings to make venture investments in a diversified portfolio of small and midsize Canadian growth businesses with the objective of achieving long-term capital appreciation for shareholders.

5. As a LSIF, the Fund is required to have a labour sponsor. The Fund's labour sponsor is the Canadian Federation of Labour (the "**Sponsor**"), which is an unincorporated national central labour body. The Sponsor, which does not receive any fees from the Fund, holds all of the issued and outstanding Class B shares (the "**Class B Shares**") of the Fund.

6. Subsequent to its formation, and prior to the commencement of these proceedings, the Fund elected to outsource the management and day-to-day operations of the Fund to GrowthWorks WV Management Ltd. (the "**Former Manager**"), a third party manager, pursuant to an amended and restated management agreement dated July 15, 2006 (the "**Management Agreement**").

7. The Manager received from the Fund annual management and administration fees based upon the net assets of the Fund from time to time (collectively, the "**Management Fees**"), which were payable monthly. As I stated in my affidavit sworn September 30, 2013 in support of the Fund's application for the Initial Order, the Management Fees were substantial. Over the two fiscal years prior to the commencement of the CCAA Proceedings, the Fund paid Management Fees to the Manager of approximately $14.3 million.

8. In addition, the Fund issued to the Former Manager a series of Class "C" shares of the Fund (the "**Class C Shares**", or the "**IPA Shares**"). The Former Manager holds all of the outstanding Class C Shares of the Fund.

Circumstances Leading to the CCAA Proceedings

9. In 2009, the Province of Ontario began phasing out a tax credit related to investments in LSIFs. The tax credit ended on December 31, 2011. As a result, the Fund began to experience declining levels of fundraising and increasing levels of mature capital in the Fund.

10. On May 28, 2010, the Fund entered into a participation agreement (the "**Participation Agreement**") with Roseway Capital S.a.r.l. ("**Roseway**"), a third party investment firm. Pursuant to the Participation Agreement, Roseway advanced $20 million to the Fund in exchange for a participating interest in selected venture investment holdings of the Fund. The Fund was required to repay the $20 million advanced by Roseway by May 28, 2013, which was subsequently extended by agreement to October 1, 2013.

11. The Fund ceased its Class A share offerings effective September 30, 2011 given the steep decline in the sales of Class A Shares resulting from the tax incentive changes in the Province of Ontario. As a result, the Fund's only source of liquidity became the net proceeds realized upon the disposition of the Fund's portfolio of venture investments. The ability of the Fund to divest itself of these relatively illiquid investments at a profit is largely dependent on favourable market conditions to provide opportunities for the Fund to exit profitably, typically at the stage of an initial public offering or merger or acquisition involving a Portfolio Company. Those opportunities became more limited as a result of the 2008 financial crisis and other market constraints.

12. Due to a lack of liquidity, the Fund did not pay the amounts owing to Roseway under the Participation Agreement when they became due in 2013 and, on October 1, 2013, Roseway declared the Fund in default of its obligations under that agreement.

13. On September 30, 2013, the Fund terminated the Management Agreement on the basis that the Former Manager had materially breached its obligations under the Management Agreement, as detailed further below.

Suspension of Dividends and Redemptions

14. In the fall of 2011, the Board determined to close Class A Share redemptions in order to preserve the Fund's capital resources and ensure the Fund remained in compliance with the requirements of the CBCA.

15. Under applicable securities laws, the holders of Class A Shares were still able to request redemptions of their Class A Shares. As at September 20, 2013, there were outstanding redemption requests from holders of Class A Shares for a total of approximately 4,165,589 Class A Shares which, based on the applicable net asset value ("**NAV**") of those Class A Shares at the time, had an aggregate redemption price of $11,460,905.

16. In addition to suspending redemptions of Class A Shares and for the same reason, the Fund suspended payment of dividends on, and redemptions of, Class C Shares.

Commencement of CCAA Proceedings

17. On October 1, 2013, the Fund was granted protection under the *Companies' Creditors Arrangement Act* ("**CCAA**") pursuant to an initial order dated October 1, 2013 (as amended and

restated on October 29, 2013, the "**Initial Order**"). The Initial Order is attached hereto as **Exhibit "A"**.

18. Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed as the monitor of the Fund (the "**Monitor**").

SALE AND LIQUIDATION PROCESSES UNDERTAKEN BY THE FUND

19. Prior to the commencement of the CCAA Proceedings, and throughout their duration, the Fund undertook multiple strategic reviews, market canvasses and sale processes to evaluate the opportunities available to realize on its investment portfolio. As detailed below, these processes consistently indicated that an orderly liquidation of the Fund's investment portfolio was the approach that would maximize value for the Fund's stakeholders.

Pre-Filing Sale Process and Strategic Review

20. In June 2012, prior to the commencement of the CCAA Proceedings, a special committee of the Board (the "**Special Committee**") began exploring ways to address the Fund's liquidity requirements, including by way of a sale of a portion of its investment portfolio. As part of this process, the Special Committee retained Triago Americas, Inc. as its financial advisor to conduct a solicitation of potential purchasers of certain of the Fund's venture investments (the "**Pre-Filing Sale Process**").

21. The Pre-Filing Sale Process generated interest from several potential purchasers but the Fund received only one written offer to purchase certain of the Fund's venture investments. The Fund completed that transaction on December 31, 2012. Given the illiquid nature of the Fund's

investment portfolio, the venture investments were disposed of at a discount of approximately 58% to the Fund's carrying value of the investments.

22. In February 2013, the Special Committee, as part of its strategic review process, retained The Commercial Capital Corporation (operating as CCC Investment Banking) ("**CCC**") as independent financial advisor to the Board, to examine the strategic alternatives available to the Fund and report to the Board on its findings. In April 2013, CCC delivered its report to the Special Committee.

23. In its report, CCC considered a number of potential alternatives available to the Fund, including renegotiation of the Fund's secured obligations to Roseway; raising new financing to fund payment of the Fund's secured obligations; an orderly disposition of the Fund's investment portfolio; an en bloc sale of the investment portfolio; and a merger with another labour-sponsored investment fund.

24. CCC concluded that a merger with a similar fund was likely to produce the best outcome for the Fund and its stakeholders. If such an option could not be identified and completed, then CCC concluded that an orderly disposition of the holdings of the Fund in the Portfolio Companies was likely to generate greater proceeds of disposition to the Fund than an *en bloc* sale.

Sale and Investment Solicitation Process

25. Following the granting of the Initial Order, on November 18, 2013, the Honourable Justice Morawetz granted an order approving a Sale and Investment Solicitation Process (the "**SISP**"). The purpose of the SISP was to canvass the market to solicit interest in purchasing or investing in

the Fund's business and property. The Fund retained CCC to assist with this process. A copy of the order approving the SISP is attached hereto as **Exhibit "B"**.

26. Two proposals were submitted by the Phase 2 bid deadline of February 3, 2014, neither of which constituted a "Qualifying Bid" as defined in the SISP. One proposal received at the Phase 2 bid deadline contemplated a purchase of only a portion of the Fund's assets at a price that, after taking into consideration the advice of CCC, was unacceptable to the Fund. The second proposal was neither a sale nor investment offer but rather was a proposal to take over the management of the Fund's investment portfolio for a fee. No offer to complete a merger transaction was received during the SISP.

Roseway IAA and the Orderly Liquidation of the Fund's Assets

27. Given that the SISP revealed no acceptable offer to purchase all of the Fund's assets in a single transaction and no merger option was identified, the Fund determined that it would be preferable to realize on its venture investments in the ordinary course, with an investment advisor in place to identify and capitalize on exit opportunities as they arose and perform certain other functions. The Fund inquired whether Roseway would be interested in performing such a role, utilizing its expertise and knowledge of the Fund's portfolio.

28. On May 9, 2014, the Fund entered into an investment advisor agreement (the "**Roseway IAA**") with Roseway pursuant to which Roseway agreed to act as investment advisor to the Fund. The Roseway IAA was approved by order of the Honourable Justice D.M. Brown on May 14, 2014.

29. The Roseway IAA permitted Roseway to delegate its obligations under the IAA. Roseway retained Crimson Capital Inc. ("**Crimson Capital**"), and its principal Donna Parr, as a sub-contractor for that purpose.

30. On May 22, 2015, the Fund and Roseway entered into a settlement agreement (the "**Settlement Agreement**") which fixed the amounts payable to Roseway in full and final satisfaction of its secured debt. The Settlement Agreement was approved by order of the Honourable Justice Newbould on June 8, 2015. The Fund made distributions to Roseway in full satisfaction of its secured debt in accordance with the terms of the Settlement Agreement on June 10, 2015 and September 4, 2015 and the Roseway IAA was terminated on December 9, 2015.

Orderly Liquidation of the Fund's Assets Continued Under the Crimson Capital IAA

31. In order to maintain the continuity of Crimson Capital's efforts to realize on the Fund's venture portfolio, the Fund entered into an investment advisor agreement with Crimson Capital on December 8, 2015 (the "**Crimson Capital IAA**") whereby the Fund retained Crimson Capital directly to provide investment advisory and other services. As detailed below, the Crimson Capital IAA has been amended and extended on several occasions and currently expires on December 31, 2022.

CLAIMS PROCEDURES

Claims Procedure Order

32. Pursuant to the order of McEwen J. dated January 9, 2014 (the "**Pre-Filing Claims Procedure Order"**), the Monitor commenced a claims process (the "**Pre-Filing Claims**

Procedure") that called for the following claims (each as defined in the Pre-Filing Claims Procedure Order):

(a) Claims consisting of all pre-filing claims other than claims entitled to the benefit of the Administration Charge (as defined in paragraph 37 of the Initial Order) or claims by Roseway pursuant to the Participation Agreement;

(b) D&O Claims; and

(c) D&O Indemnity Claims.

33. A copy of the Pre-Filing Claims Procedure Order is attached hereto as **Exhibit "C"**.

34. The claims bar date for Claims and D&O Claims was March 6, 2014. The bar date for D&O Indemnity Claims was 15 days after receipt of D&O Claims.

35. In order to enable the Pre-Filing Claims Procedure to continue in a cost-effective manner at a time at which the realizable value of the Fund's portfolio relative to claims against the Fund was unclear, the Pre-Filing Claims Procedure Order did not provide a set date for the Monitor to send Notices of Revision or Disallowance (as defined in the Pre-Filing Claims Procedure Order). This permitted the Monitor to use discretion as to if and when to adjudicate disputed claims in accordance with the Pre-Filing Claims Procedure Order.

Resolution of Roseway Claim

36. Roseway was previously the Fund's largest creditor and only secured creditor. As described in the Monitor's Sixth Report dated March 5, 2014 at paragraph 31, the Fund and Monitor deferred the adjudication of the other claims filed pursuant to the general claims process until such time as

Roseway was paid in full, with such an adjudication to proceed only in the event that there would be funds remaining for distribution to unsecured creditors of the Fund. As detailed above, Roseway was paid in full in 2015.

Former Manager Litigation

37. Following the resolution of the Roseway claim, there were relatively few unresolved claims remaining against the Fund. The most significant of these, by far, was the claim filed by the Former Manager (the "**Former Manager Claim**").

38. Pursuant to paragraphs 47 to 54 of the Pre-Filing Claims Procedure Order, the Former Manager was deemed to have submitted a Proof of Claim in the amount of $18 million in relation to the termination of the Management Agreement and a procedure was set out to determine the Former Manager Claim.

39. Given the significant quantum of the Former Manager Claim relative to the remaining assets of the Fund, the Fund and the Monitor determined that it would not be sensible to complete the claims process and consider any process whereby distributions could be made to the shareholders of the Fund until such time as the Former Manager Claim was fully and finally determined.

40. The litigation of the Former Manager Claim pursuant to the Pre-Filing Claims Procedure Order was undertaken diligently. A trial proceeded on July 17, 2017 for two weeks before the Honourable Justice Wilton-Siegel.

41. On May 18, 2018, Justice Wilton-Siegel issued his reasons for judgment (the "**Reasons**"). A copy of the Reasons are attached hereto as **Exhibit "D"**. The judgment of Justice Wilton-Siegel

was not settled and entered until January 8, 2020 (the "**Judgment**"). A copy of the Judgment is attached hereto as **Exhibit "E"**.

42. In the Reasons, Justice Wilton-Siegel found that the Former Manager had breached its contractual standard of care and that such breach constituted a "material breach" of the Management Agreement by the Former Manager. As a result, Justice Wilton-Siegel held that the Fund had properly terminated the Management Agreement in September 2013 and therefore dismissed the Former Manager's claim for damages, except to the extent of its claim for certain unpaid management, administration, financing and capital retention fees accrued to the date of termination and its claim for certain expenses the Former Manager maintains it incurred following the termination of the Management Agreement. Justice Wilton-Siegel also concluded that the Former Manager was not entitled to its claim for payment of accrued "IPA Dividends", as detailed further below.

43. Justice Wilton-Siegel denied the Fund's counter-claim for damages arising as a result of the Former Manager's breach of the standard of care on the basis that the Fund's claim was statute barred under applicable limitations legislation. However, Justice Wilton-Siegel awarded to the Fund damages in respect of certain other claims made by the Fund in relation to the Former Manager's other breaches of its obligations under the Management Agreement.

44. On August 8, 2019, the Honourable Mr. Justice Wilton-Siegel issued a costs endorsement awarding costs to the Fund in the amount of $400,000 payable by the Former Manager to the Fund forthwith (the "**Costs Award**"). A copy of the costs endorsement is attached hereto as **Exhibit "F"**.

45. The net result of the Judgment and the Costs Award was that amounts were owing from the Former Manager to the Fund. The Fund subsequently entered into an agreement with the Former Manager to, among other things, address the outstanding liability to the Fund associated with the Former Manager Litigation.

46. Leave to appeal the Judgment was not sought by either party. As such, the claims of the Former Manager against the Fund have been finally determined.

Post-Filing Claims Procedure

47. Following the disposition of the Former Manager Claim, the Monitor proceeded to review and adjudicate the remaining claims filed in the Pre-Filing Claims Procedure.

48. To identify all creditors entitled to a distribution, particularly given the length of time that had elapsed since the initial claims bar date of March 6, 2014, the Fund obtained an order of the Honourable Justice Penny dated November 30, 2021 (the "**Post-Filing Claims Procedure Order**") providing a process to solicit, quantify and adjudicate post-filing claims (the "**Post-Filing Claims Procedure**"). A copy of the Post-Filing Claims Procedure Order is attached hereto as **Exhibit "G"**.

49. The Post-Filing Claims Bar Date (as defined therein) was January 21, 2022. The Monitor did not receive any claims in the Post-Filing Claims Procedure, except one shareholder claim.

STRATEGIC REVIEW AND CONTINUATION OF ORDERLY LIQUIDATION

2019-2020 Strategic Review

50. Following receipt of the decision in respect of the Former Manager Litigation in May 2018, the Fund conducted an analysis of strategic alternatives, including a limited market check with respect to portfolio value. The strategic alternatives considered included the continued orderly disposition of the Fund's remaining venture investments, a sale of all or substantially all of the Fund's assets, and a sale of the Fund itself.

51. The Fund engaged CCC as a financial advisor to assist the Board in its strategic review and to conduct a market check process, in consultation with the Monitor. CCC was engaged to, among other things,

(a) identify alternatives reasonably available to the Fund, including but not limited to, an outright sale of all or a portion of the Fund's assets or a sale of the Fund itself;

(b) analyse the feasibility and qualitative and quantitative impact of each alternative identified, together with other related financial analysis;

(c) execute non-disclosure agreements with interested parties;

(d) solicit expressions of interest; and

(e) make recommendations on next steps.

52. Based on this strategic review, which continued into the first half of 2020, the Board ultimately determined, in consultation with CCC and the Monitor, that continuation of an orderly

liquidation of the Fund's investment portfolio was in the best interests of stakeholders, principally being the shareholders of the Fund.

Status of Orderly Liquidation

53. Crimson Capital has continuously and actively sought out opportunities to liquidate the Fund's remaining assets to maximize value since 2014. I have been provided with regular updates on Crimson Capital's progress in this regard throughout.

54. The strategy of pursuing an orderly liquidation of the Fund's investment portfolio has been successful. At the commencement of the CCAA Proceedings, the Fund held venture investments in 71 Portfolio Companies. The Fund has divested its interest in all but 13 remaining Portfolio Companies. The Fund has received net proceeds from investment portfolio dispositions of approximately $50.0 million plus cash balances on hand or recovered from third parties of approximately $7 million for a total of $57 million in proceeds, which has enabled it to satisfy all of the secured and unsecured creditor claims against it.

55. On November 29, 2022, Crimson Capital delivered a confidential summary of the Fund's remaining portfolio investments to the Board (the "**Confidential Summary**"). The Confidential Summary estimates that the disposition of the Fund's investment positions may generate the following returns over the next two years and beyond:

(a) 2023: $17.65 million

(b) 2024 and onwards: $0.67 million

56. A copy of the Confidential Summary is attached hereto as **Confidential Exhibit "H"** (the "**Confidential Exhibit**").

Administration Costs

57. The Fund undertook various steps to reduce its administration costs while the CCAA Proceedings are ongoing. As the Fund has no internal management team and relies on third parties to provide material services to enable it to continue operating, there are certain limited costs that are necessary to ensure the Fund is able to continue the asset realization process. These costs include the fees of the Fund's investment advisor, Crimson Capital; the fees of the Fund's shareholder administration services provider, The Investment Administration Solution Inc. ("**IAS**"), a significant portion of which are fixed; the professional fees relating to the CCAA proceedings; and the costs associated with the daily affairs of the Fund, such as accounting and responding to shareholder requests and inquiries.

58. The Fund has also taken steps to reduce the costs associated with financial reporting by changing the Fund's auditors and dispensing with audited financial statements.

59. In addition, the size of the Board was reduced from eleven to three directors at the time Roseway was appointed as investment advisor, thereby reducing the costs of maintaining the Board. Further, in 2014, the Fund reduced the amount paid to its directors by way of board retainers and board meeting fees, and has not incurred any costs for director travel in relation to Board meetings.

APPROPRIATE TO COMMENCE DISSOLUTION PROCESS

60. In the course of granting a stay extension on June 29, 2021, the Honourable Justice Dunphy indicated that while the "portfolio has been successfully managed over the years to the point of repaying the secured creditors in full and resolving two large contingent claims", the Fund should develop a "concrete game plan for winding up the liquidation process and exiting from the court process." Justice Dunphy further stated that:

> I understand that the portfolio of VC investments left in the fund is getting down to a relatively small number of investments that it is hoped will yield a material amount of money that can be distributed to the long-suffering investors… There will come a time … that the benefits of the patient work-out of the portfolio to maximize value will not justify the expense and delay of doing so and a more rapid sale of some or all of the remaining portfolio to new owners willing to take the time needed to realize that value will be the preferable course.

A copy of Justice Dunphy's endorsement dated June 29, 2021 is attached hereto as **Exhibit "I"**.

61. The Fund has been very mindful of these comments. Since that time the Fund has been considering, in consultation with Crimson Capital and the Monitor, the appropriate timing and process for concluding the orderly liquidation of its portfolio, making distributions to shareholders, dissolving the Fund and concluding the CCAA Proceedings.

62. The last time the Fund was before the Court seeking an extension of the Stay Period (defined below) was on March 30, 2022. At that time, Crimson Capital was estimating that the disposition of the Fund's investment positions in 2022 may generate total gross proceeds of approximately $26.8 million. On that basis, the Board was of the view at that time that it was best to continue the orderly liquidation process throughout 2022 as planned.

63. In granting the stay extension sought by the Fund, Justice Penny noted in his endorsement, among other things:

> I am satisfied that the stay extension sought by the company is warranted. The Monitor supports the request. Significant progress has been made in realizations

> and there is a *prima facie* sensible plan for the completion of the necessary steps. The Board and the Monitor are cognizant of the fact that some of the assets may not be best handled by the debtor in this process, given the time and risk that may be required to realize significant value.

A copy of the endorsement of Justice Penny dated March 30, 2022 is attached hereto as **Exhibit "J"**.

64. The Fund did not realize any proceeds from dispositions in 2022 owing to, among other things, the deterioration of the equity markets more broadly and specifically with respect to software and biotech companies which comprise most of the Fund's remaining portfolio investments.

65. The Fund, with the support of the Monitor, has determined that it is now appropriate to commence a dissolution process that will allow the Fund a reasonable period of time to pursue significant divestitures (estimated to be in excess of $18 million) while minimizing ongoing costs and providing a clear end-time for the realization process and related distributions. In reaching this conclusion, the Fund was mindful of the following factors:

(a) the duration of the CCAA Proceedings, which were commenced over nine years ago on October 1, 2013;

(b) the relatively small number of investments remaining in the Fund's investment portfolio of material value;

(c) Crimson Capital's estimate that significant proceeds from those remaining investments are expected to be realized in 2023-2024, with very little expected to be realized thereafter; and

(d) the desire of the Board to reduce the operating expenses of the Fund to preserve its available cash for distributions to its shareholders.

66. The Fund is accordingly seeking the Distribution, Termination and Discharge Order which includes the relief set out below. This relief is necessary and appropriate to facilitate the Fund concluding the orderly liquidation of its portfolio, making distributions to shareholders, dissolving the Fund and concluding the CCAA Proceedings for the benefit of its stakeholders.

RELIEF SOUGHT ON THIS MOTION

Stay Extension

67. The Stay Period (as defined in paragraph 14 of the Initial Order, the "**Stay Period**") has been extended a number of times, most recently until December 31, 2022. A copy of the most recent order of Justice Penny dated March 30, 2022 is attached hereto as **Exhibit "K"**.

68. The Fund is seeking a final extension of the Stay Period up to the earlier of: (i) December 31, 2024, and (ii) the CCAA Termination Time (defined below) (the "**Stay Extension Period**"). While the Fund recognizes that this is longer than the nine-month stay extensions that it has been seeking over the last several years, and longer than stay extensions that are typically granted in CCAA proceedings, the Fund believes that this length of stay extension is appropriate in the circumstances as:

(a) the Fund has committed that this will be the final stay extension that is sought in these proceedings;

(b) the Fund has been advised by Crimson Capital that any proceeds of its remaining portfolio investments are anticipated in 2023 or 2024;

(c) the Fund may end its efforts to liquidate its investment portfolio and conclude the CCAA Proceedings sooner if appropriate, as detailed further below;

(d) all existing secured and unsecured creditor claims have been resolved and paid;

(e) in order to minimize the ongoing administration costs of the Fund even further, the Fund intends to further reduce the size of the Board from three directors to one effective December 31, 2022;

(f) holders of Class A Shares will not suffer any material prejudice from the delay as the current liquid assets of the Fund would only result in a distribution of approximately $40 to each shareholder; and

(g) this will limit the professional fee costs of seeking multiple stay extensions, which are among the largest costs that continue to be incurred by the Fund and would erode the potential recovery to holders of Class A Shares.

69. The Fund requires an extension to the Stay Period in order to ensure that it is able to continue the realization process for a period of no longer than two years and then distribute its available cash to shareholders in equitable manner in accordance with its articles. If the Stay Period was terminated prior to distributions being made, the Fund may face additional redemption requests and claims which would result in certain shareholders and other stakeholders potentially obtaining an advantage over others and the Fund being required to incur costs to respond to such

claims, both of which would erode the amounts available for an equitable distribution to all shareholders.

70. As described herein, the Fund has acted and continues to act in good faith and with due diligence. Among other things:

(a) the Fund has continued to engage Crimson Capital to complete an orderly liquidation process;

(b) the Fund has continued to consider ways to reduce administration costs, including the further reduction of the Board from three directors to one; and

(c) the Fund has developed this proposed dissolution process

71. I understand that a cashflow forecast covering the proposed extension of the Stay Period will be appended to the Monitor's Thirtieth Report, to be filed (the "**Thirtieth Report**") that will demonstrate the Fund has sufficient liquidity to meet its obligations through to the end of the extension of the Stay Period.

Completion of Orderly Liquidation

72. The proposed Distribution, Termination and Discharge Order would authorize the Fund to continue to take such steps as the Applicant, in consultation with Crimson Capital (for so long as Crimson Capital continues to serve as an investment advisor to the Fund) and the Monitor as appropriate, determines is appropriate to effect an orderly liquidation of its investment portfolio during the Stay Extension Period. The order provides a clear end-date for that process: December 31, 2024.

73. The Applicant will continue to evaluate the appropriateness of continuing its efforts to liquidate its investment portfolio throughout the Stay Extension Period considering the proceeds likely to be realized, the estimated cost of such efforts and such other factors as the Applicant determines relevant in the circumstances. The proposed Order would authorize the Applicant to cease that orderly liquidation if it determines that it would be appropriate to do so, in consultation with Crimson Capital (for so long as Crimson Capital continues to serve as an investment advisor to the Fund) and the Monitor as appropriate. In those circumstances, in accordance with the proposed Order, the Applicant may donate any security that it continues to hold to one or more charities or otherwise deal with it in the manner determined by the Applicant, in consultation with the Monitor.

Distributions to Shareholders

74. As noted above, the authorized capital of the Fund consists of (i) Class A Shares, which were issued in 17 series and are held by 115,859 Class A shareholders, (ii) Class B Shares, which are held by the Sponsor, and (iii) Class C shares, which are held by the Former Manager.

75. The articles of the Fund set out the respective amounts payable to the holders of each outstanding class and series of shares of the Fund upon the occurrence of a "Dissolution Event" and the relative priorities of those payments among the various share classes. A copy of a certificate of amendment dated November 10, 2003 setting out the share terms of the Class A Shares and Class B Shares is attached hereto as **Exhibit "L"**. A copy of a certificate of amendment dated February 12, 2010 setting out the share terms of the IPA Shares are attached hereto as of the Fund are attached hereto as **Exhibit "M"**.

76. The share terms define the term "**Dissolution Event**" as "the liquidation, dissolution or winding-up of the [Fund], whether voluntary or involuntary, or any other distribution of the assets of the [Fund] among its shareholders for the purpose of winding up its affairs".

Class A Shares

77. On a Dissolution Event, the holders of Class A Shares are entitled to share rateably the remaining property and assets of the Fund after the holders of shares of any other class having priority have received all amounts to which they are entitled. Each holder of a series of Class A Shares is entitled on a Dissolution Event to an amount equal to the amount the shareholder would be entitled to receive on a full redemption of their Class A Shares.

78. If, on a Dissolution Event, the Fund does not have sufficient funds to satisfy all amounts payable to all Class A Shareholders, a shareholder is entitled to receive their *pro rata* portion of the available funds. The holders of the Class A Shares rank equally with holders of Class C Shares/IPA Shares on a Dissolution Event.

79. The Class A Share terms provide that (i) any determination made by the directors of the Fund in good faith regarding any matters set out in Part 2 (Class A Shares) of the Fund's articles will be final and binding on all shareholders and former shareholders of the Fund and all other interested parties; and (ii) the directors of the Fund will not be liable to the Fund or to any shareholder of former shareholder of the Fund or any other interested party for, or with respect to, any matter arising directly or indirectly from any such determination made or action taken by them in good faith pursuant to Part 2 of the Fund's articles.

Class B Shares

80. On a Dissolution Event, the holder of the Class B Shares (i.e. the Sponsor) is only entitled to receive an amount equal to the purchase price it paid for its Class B Shares, which is a nominal amount. This amount must be paid before any assets of the Fund are distributed to the holders of the Class A Shares and Class C Shares.

Class C Shares

81. The Former Manager, as the holder of the IPA Shares, is entitled to receive dividends ("**IPA Dividends**") based on realized gains and income from venture investments held by the Fund. The IPA Share terms stipulate that IPA Dividends cannot be paid in respect of any venture investment unless the following conditions have been met:

(a) Portfolio Test: the total net realized and unrealized gains and income of the Fund from its portfolio of venture investments since the IPA Start Date must have generated an annualized rate of return greater than a cumulative annualized threshold rate of return equal to the average annual rate of return on a five year

guaranteed investment certificate ("**GIC**") offered by a major Canadian chartered bank plus 2%;

(b) Venture Investment Test: the compounded annual internal rate of return (including realized and unrealized gains and income from prior partial dispositions of that venture investment or otherwise) from the venture investment since its acquisition by the Fund must equal or exceed 12% per year; and

(c) Principal Test: the Fund must have fully recovered a cash amount at least equal to the principal invested in the venture investment.

82. For the purposes of applying the Portfolio Test above, I note that, as of the date of swearing this affidavit, the posted rate for a non-redeemable 5-year GIC from Royal Bank of Canada is 4.25%.

83. Section 4.2(f) of the IPA Share terms provides that, if the holder of the IPA Shares is terminated as a manager of the Fund, the holder of the IPA Shares will be entitled to receive an amount equal to the sum of:

(a) all declared but unpaid dividends on the IPA Shares; and

(b) dividends in an amount equal to the cumulative dividends to which the holder of the IPA Shares would have been entitled pursuant to paragraph 4.2(d) of the IPA Share terms (which sets out the formula for calculating IPA Dividends), whether or not dividends were actually declared by the directors, assuming that all Venture Investments had been disposed of as of the effective date of such termination at the

> estimated fair value of such investments calculated in accordance with the Fund's usual valuation policies.

84. Any amount in (i) above must be paid promptly and any dividend payable in (ii) above is payable as and when the particular Venture Investment is disposed of.

85. The term "**Venture Investment**" is defined in the Fund's articles as, in effect, any securities of a person held by the Fund (other than reserves) on the "**IPA Start Date**" (being November 26, 2002) and any securities acquired by the Fund (other than reserves) after November 26, 2002.

86. In the Former Manager Litigation, the Former Manager claimed that it was entitled, pursuant to section 4.2(f)(ii) of the IPA Share terms, to payment of dividends on the IPA Shares equal to the total of realized gains and income from four venture capital investments that were divested prior to termination of the Management Agreement. The total amount claimed was $672,390.61. In his ruling of May 18, 2018 in the Former Manager Litigation, Justice Wilton-Siegel rejected the Former Manager's claim for that amount. In the Reasons, His Honour held:

> [378] The Former Manager claims that it is entitled pursuant to section 4.2(f)(ii) to payment of dividends on the IPA Shares equal to the total of realized gains and income from four venture capital investments that were divested prior to termination of the Management Agreement. The total amount claimed is $672,390.61.
>
> [379] In support of its position that it is entitled to the earned, undeclared and unpaid dividends, the Former Manager relies on: (1) the language of section 4.2(f)(ii); and (2) the Fund's treatment of earned, undeclared and unpaid dividends in its financial statements.
>
> [380] The Fund does not dispute that this amount was earned in the sense that the Former Manager is entitled to receive dividends in such amount pursuant to the provisions of section 4.2(d)(i) of the share conditions of the IPA Shares, subject to compliance with the terms of that provision. However, it submits that the Former Manager is not entitled to be paid such amount in the absence of a

Board resolution declaring a dividend in such amounts on the IPA Shares, which the Board is prevented from passing in view of the solvency provisions of section 42 of the CBCA. In my view, the language of section 4.2(f)(ii) does not support the Former Manager's position that it is entitled to payment of the amount claimed by way of an IPA Dividend on the IPA Shares in the present circumstances for the following reasons.

[381] The Former Manager relies on the words "whether or not dividends were actually declared by the directors" in section 4.2(f)(ii). If section 4.2(f)(ii) provided that the Former Manager was entitled to receive the amount contemplated thereby otherwise than as "dividends," the result might well be different. However, section 4.2(f)(ii) is quite explicit. It provides that the Former Manager is entitled to "dividends in an amount equal to the cumulative dividends to which [the Former Manager] would have been entitled pursuant to paragraph (d) above…" (emphasis added). Section 4.2(d)(i) provides, among other things, that "the directors shall declare where permitted by the Act and the [Fund] shall pay" the earned amounts (emphasis added). This language requires the Fund to make any amount owing pursuant to section 4.2(f)(ii) payable by way of a dividend. It also makes the Board's obligation to declare the contemplated dividend dependent upon the CBCA and, in particular, satisfaction of the solvency provisions in section 42 of that statute.

[382] As the share provisions are clear that the earned amounts are to be paid to the Former Manager in the form of dividends, and, in any event, as it is not disputed that, in the present circumstances, the directors could not satisfy section 42 of the CBCA if they were to declare a dividend in respect of such amounts, the Board has no obligation to declare such dividend and the Fund therefore has no obligation to pay any amount to which the Former Manager is otherwise entitled pursuant to section 4.2(f)(ii). In short, there is no amount to which the Former Manager would have been entitled pursuant to section 4.2(d)(i) of the share conditions of the IPA Shares.

[383] In addition, I do not find the financial statement treatment of these earned amounts as probative of the legal issue in this proceeding for three reasons.

[384] First, the financial statement treatment of these amounts as a liability in years prior to 2013 is undoubtedly correct in the context of a going-concern entity. Regardless of any legal issue surrounding the need for a declaration of a dividend, these amounts were required to comply with the business arrangements between the Fund and the Former Manager.

[385] Second, the concept of a liability for accounting purposes is broader than the concept of a legally enforceable obligation at law. In fact, the accrual of a contingent liability in respect of the IPA Shares demonstrates this reality. There is, therefore, no necessary inference of a legally enforceable obligation to be derived from the accounting treatment of this claim in the financial statements of the Fund.

> [386] Third, there is no evidence of any issue of compliance with the CBCA solvency test that was raised in respect of such earned amounts at the time of finalization of the financial statements. Further, and in any event, there is no evidence that the legal issue presented by this action was addressed in the preparation of the financial statements.
>
> [387] I also note that Mesbur J. reached a similar conclusion on similar language in another case also involving the Former Manager reported at 2017 ONSC 5009, which is currently under appeal. While I agree with the reasoning in that case, I have not relied specifically on that decision in reaching the conclusion expressed herein.
>
> [388] Based on the foregoing, I conclude that the Former Manager is not entitled to its claim for the amount of accrued IPA Dividends in the amount of $672,390.61.

87. In the Judgment, Justice Wilton-Siegel ordered that while the Former Manager's claim for IPA Dividends as a result of the termination of the Management Agreement was dismissed, the Former Manager was not precluded from making a claim with respect to IPA Dividends based on a Dissolution Event:

> **2. THIS COURT ORDERS** that the claim of the Former Manager for $672,390.61 for unpaid incentive payment amounts ("**IPA**") as a result of the termination of the Management Agreement, but not any potential claim for IPA based on a Dissolution Event as defined in the Articles of Amendment for Class C Shares (which potential claim was not before the court on this trial), is dismissed.

88. On a Dissolution Event, Section 4.2(e) of the IPA Share terms provides that the Former Manager, as the sole holder of IPA Shares, will be entitled to receive an amount equal to the sum of:

(a) all declared but unpaid dividends on the IPA Shares; and

(b) an amount equal to the cumulative dividends to which the holder of the IPA Shares would have been entitled pursuant to paragraph 4.2(d) of the IPA Share terms (which sets out the formula for calculating IPA Dividends), whether or not dividends were actually declared by the directors, assuming that all Venture

> Investments (as described below) had been disposed of as of the date of the Dissolution Event at the estimated fair value of such investments calculated in accordance with the Fund's usual valuation policies

89. The term "Venture Investments" when used in section 4.2(e) of the IPA Share terms in relation to the date of dissolution means the Venture Investments held by the Fund at the time of the dissolution and not all Venture Investments held since the IPA Start Date in 2002.

90. The Fund has experienced significant losses in its investment portfolio since 2012. Accordingly, the Fund does not believe that the "Portfolio Test" described above will be met on the date of the Dissolution Event (i.e. the date on which the Court issues the Distribution, Termination and Discharge Order, should it decide to issue it).

91. As noted above, the Fund has received a total of $57.0 million in proceeds from realizations on its portfolio investments since the commencement of the CCAA Proceedings. The sum of those realizations plus the estimated current fair value of the Fund's remaining portfolio investments, as set out in the Confidential Summary, is significantly less than the cost of those investments as set out in the audited financial statements of the Fund for the year ended August 31, 2013 (being the most recent audited financial statements prepared by the Fund) (the "**2013 Financial Statements**"). A copy of the 2013 Financial Statements are attached hereto as **Exhibit "N"**.

92. As a result, the Fund is of the view that no distribution is payable in respect of the Class C/IPA Shares.

Relief Related to Distributions

93. The proposed Distribution, Termination and Discharge Order provides for distributions to holders of Class A Shares, Class B Shares and Class C Shares that are consistent with the rights on a Dissolution Event set out above.

94. With respect to Class B Shares, the proposed Distribution, Termination and Discharge Order contemplates that a distribution will be made to the Sponsor on the initial date that a distribution is made pursuant to the Distribution, Termination and Discharge Order (each, a "**Distribution Date**") in accordance with the terms of the Class "B" shares in full and final satisfaction of any and all entitlement that the Class "B" shareholder has to receive dividends or any other payments pursuant to the terms of the Class B Shares.

95. With respect to the Class C Shares, the proposed Distribution, Termination and Discharge Order provides that the holder of the Class C Shares is not entitled to receive any further dividends or payments on account of those shares. This relief is necessary as the Class C Share Terms and IPA Share terms do not include provisions protecting the directors from liability related to determinations they make in good faith on entitlement of the Class C Shares to dividends, as the Class A Shares do.

96. With respect to the Class A Shares, the proposed Distribution, Termination and Discharge Order authorizes the Applicant to make one or more Distributions from the Class A Distribution Pool to Class A Eligible Shareholders in accordance with the respective terms of the various outstanding series of Class A shares of the Applicant.

97. The Class A Distribution Pool is defined as available cash and cash equivalents of the Applicant (the "**Available Cash**") on the date that is seven Business Days prior to the date upon which a Distribution is made (each, a "**Distribution Record Date**") less (i) the amount of any Distributions to be made to the holder of the Class B Shares, (ii) any amounts due and owing to creditors of the Applicant on such Distribution Record Date, if any, (iii) the estimated cost of such Distribution, and (iv) a reserve for the estimated costs of the Applicant, the Monitor and their respective Representatives from such Distribution Record Date to the CCAA Termination Time, in each case determined by the Applicant in consultation with the Monitor.

98. On each Distribution Date, the Monitor will serve on the Service List and post on the Monitor's Website a Monitor's Distribution Certificate certifying that a Distribution has been made and specifying the aggregate amount of the Distribution to Class A Eligible Shareholders and the amount of the Distribution made on account of each Class A Share held by a Class A Eligible Shareholder. The purpose of this certificate is to provide public notice of the distributions that have been made on account of Class A Shares to inform all stakeholders of the Applicant.

99. If any Distributions are returned as undelivered or are not cashed within six months of a Distribution Date, the applicable shareholder's entitlement to that amount will be extinguished, the shareholder will not be eligible for any further Distributions and the amount of the Distribution that shareholder will be added to the Available Cash and available for subsequent Distributions, if appropriate.

Disposition of Remaining Funds

100. The Fund presently has approximately $5.4 million in liquid assets. The Board obtained a quote from the Fund's transfer agent, IAS, for the costs of a distribution to the Fund's 115,859

Class A shareholders. Based on the quote provided and the Fund's estimate of associated legal and other expenses, the estimated cost of distribution to holders of Class A Shares is approximately $125,000.

101. Given the significant cost of subsequent distributions, the proposed Distribution, Termination and Discharge Order provides that if the Applicant determines, in consultation with the Monitor, that the costs of making a Distribution are likely to exceed the Available Cash, the Applicant, in consultation with the Monitor, may donate any portion of the Available Cash to one or more charities or otherwise deal with the Available Cash in the manner determined by the Applicant and the Monitor.

Termination, Discharge and Dissolution

102. Upon the Fund concluding the liquidation of its investment portfolio, paying all creditor claims, making distributions to shareholders and otherwise completing all matters to be attended to in connection with the CCAA Proceedings to the satisfaction of the Monitor, the Monitor will file with the Court the Monitor's CCAA Completion Certificate, which will designate the "**CCAA Termination Time"**.

103. As of the CCAA Termination Time:

(a) the CCAA Proceedings will be terminated;

(b) the Fund will be dissolved without any further act or formality, including any approval, consent or authorization of any shareholder or other security holder of the Applicant or any Governmental Authority;

(c) the Monitor will be discharged and released from its duties, obligations and responsibilities and will be forever released, remised and discharged from any claims against it relating to its activities as Monitor;

(d) the releases and injunctions provided for in the Distribution, Termination and Discharge Order (detailed below) will become effective; and

(e) the Administration Charge and Directors' Charge provided for in the Initial Order will be terminated, released and discharged.

104. The Fund has determined that it is not practicable to seek approval from its shareholders to dissolve the Fund. If the Fund were required to hold a meeting of its shareholders in order to authorize a dissolution, the significant costs associated with calling a meeting of its 115,859 Class A shareholders would only serve to reduce the recovery available to those shareholders.

105. The Distribution, Termination and Discharge Order provides for releases in favour of the current and former directors, officers and agents of the Fund and the Monitor from all claims that in any way relate to or arise out of or in connection with (i) the assets, obligations, business or affairs of the Fund; or (ii) the CCAA Proceedings or any matter, transaction or occurrence involving the Fund or its current and former directors, officers and agents occurring in or in connection with the CCAA Proceedings. Any claims claim that cannot be compromised due to the provisions of subsection 5.1(2) of the CCAA are carved out of the releases.

Sealing Order

106. The Fund is seeking an order to seal the Confidential Exhibit until further order of the Court. The Confidential Exhibit contains details regarding Crimson Capital's particularized estimates of the value that could be realized from each of the Fund's remaining material investments, together with details regarding the investments in these private companies.

107. While the Fund has disclosed the overall estimated proceeds above, disclosure of the particularized, detailed information would be prejudicial to the Fund's ongoing efforts to realize on such investments and maximize value from them for the benefit of the Fund's stakeholders. As such, I believe it is appropriate to seal the Confidential Exhibit, subject to a further order of the Court.

Second Amended and Restated IAA Agreement

108. Crimson Capital is engaged through an Amended and Restated Investment Advisor Agreement (the "**Second Amended and Restated IAA Agreement**"), which the Court authorized the Fund to enter on March 22, 2019 pursuant to the Stay Extension Order of the Honourable Justice Hainey (the "**March 22, 2019 Stay Extension Order**"). A copy of the Second Amended and Restated IAA Agreement is attached hereto as **Exhibit "O"**. A copy of the March 22, 2019 Stay Extension Order is attached hereto as **Exhibit "P"**.

109. The terms of the Second Amended and Restated IAA Agreement initially expired on December 31, 2019. Pursuant to section 8.1 of the Second Amended and Restated IAA Agreement, the Fund may, upon mutual agreement of the Fund and Crimson Capital, extend the term.

110. On each of December 18, 2019, September 22, 2020, June 29, 2021 and March 30, 2022, this Court authorized the Fund to extend the term of the Second Amended and Restated IAA Agreement and ordered that paragraphs 4 to 7 of the March 22, 2019 Stay Extension Order continued to apply during the extended term. On these occasions, the Fund entered into an amending agreement extending the term.

111. The term of the Second Amended and Restated IAA Agreement is currently set to expire on December 31, 2022. As Crimson Capital is continuing to seek out opportunities to liquidate the Fund's remaining assets to maximize value, the Board has determined that it would be in the best interests of the Fund and its stakeholders to extend the term of the Second Amended and Restated IAA Agreement until the earlier of (i) December 31, 2024, or (ii) the CCAA Termination Time, which mirrors the length of the stay extension sought.

NOTICE

112. Given the amount of time required and the associated cost, it would not be practicable or cost-efficient to provide notice of this motion by mail or similar means to each of the individual shareholders of the Fund. As noted above, the Fund has 115,859 Class A shareholders. Accordingly, the Fund intends to provide notice of this motion by:

(a) serving its motion materials on the service list in the CCAA Proceedings, which includes counsel to the Former Manager;

(b) arranging for its motion materials to be posted on the website established by the Monitor in respect of the CCAA Proceedings (the "**Monitor's Website**"); and

(c) issuing a press release in the form attached hereto as **Exhibit "Q"**, describing the background to the Fund's motion and the relief being sought and including a link to the Monitor's Website for accessing the motion materials.

113. I believe that the above measures are the most practical and cost-effective means of providing notice of this motion to the shareholders of the Fund.

CONCLUSION

114. For the reasons set out above, the Fund respectfully requests that the Court issue the Distribution, Termination and Discharge Order.

SWORN BEFORE ME VIA VIDEOCONFERENCE, the affiant being located in the City of Collingwood, in the Province of Ontario, Canada and the Commissioner being located in the City of Toronto, in the Province of Ontario, Canada on December 2, 2022, in accordance O. Reg. 431/20, Administering Oath or Declaration Remotely.

C. Ian Ross

William Joseph Kee Dandie,
a Commissioner, etc., Province of Ontario,
while a Student-at-Law.
Expires July 14, 2025.

A Commissioner for taking Affidavits

Tab B

This is Exhibit "**B**" referred to in the
Affidavit of **C. Ian Ross**
sworn before me December 11, 2024

DocuSigned by:
Meena Alnajar
A508ACD91E1F426...

A Commissioner for taking Affidavits (or as may be)
Meena Alnajar LSO #: 89626N

Electronically issued / Délivré par voie électronique : 20-Jan-2023
Toronto Superior Court of Justice / Cour supérieure de justice

Court File No./N° du dossier du greffe : CV-13-00010279-00CL

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.	)	THURSDAY, THE 19TH
	)	
JUSTICE PENNY	)	DAY OF JANUARY, 2023

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.

DISTRIBUTION, TERMINATION AND DISCHARGE ORDER

THIS MOTION, made by GrowthWorks Canadian Fund Ltd. (the "**Applicant**" or the "**Fund**") pursuant to the *Companies' Creditors Arrangement* Act, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order:

(i) extending the stay period defined in paragraph 14 of the Initial Order (defined below) (the "**Stay Period**");

(ii) granting certain relief related to the liquidation of the Applicant's portfolio;

(iii) authorizing the making of distributions to Class "A" shareholders and Class "B" shareholders of the Applicant;

(iv) approving the following reports (collectively, the "**Reports**") Twenty-First Report of FTI Consulting Canada Inc. ("**FTI**"), in its capacity as monitor of the Applicant (the "**Monitor**") dated December 14, 2017 (the "**Twenty-First Report**"), the Twenty-Second Report of the Monitor dated June 25, 2018 ("**Twenty-Second Report**"), the Twenty-Third Report of the Monitor dated February 14, 2019 ("**Twenty-Third**

Report"), the Twenty-Fourth Report of the Monitor dated March 21, 2019 ("**Twenty-Fourth Report**"), the Twenty-Fifth Report of the Monitor dated December 16, 2019 (the "**Twenty-Fifth Report**"), the Twenty-Sixth Report of the Monitor dated September 18, 2020 ("**Twenty-Sixth Report**"), the Twenty Seventh-Report of the Monitor dated June 25, 2021 ("**Twenty Seventh-Report**"), the Twenty-Eighth Report of the Monitor dated November 27, 2021 (the "**Twenty-Eighth Report**"), the Twenty-Ninth Report of the Monitor dated March 22, 2022 (the "**Twenty-Ninth Report**") and the Thirtieth Report of the Monitor dated December 9, 2022 (the "**Thirtieth Report**") as well as the activities outlined in each such report;

(v) approving the fees and disbursements of the Monitor and its legal counsel;

(vi) providing for the release of the Monitor, the Applicant and their Representatives (as defined below);

(vii) as of the CCAA Termination Time (defined below), dissolving the Applicant, discharging the Monitor, terminating the CCAA Proceedings (defined below) and discharging the Administration Charge and the Directors' Charge (as each is defined in the Initial Order (defined below));

(viii) sealing a confidential exhibit; and

(ix) approving an extension to the Amended and Restated Investment Advisor Agreement between Crimson Capital Inc. ("**Crimson Capital**") and the Fund (the "**Second Amended and Restated IAA**"),

was heard this day by way of judicial video conference via Zoom in Toronto, Ontario.

ON READING the Motion Record of the Fund, including the Notice of Motion (the "**Motion Record**") and the affidavit of C. Ian Ross sworn on December 2, 2022 (the "**Ross Affidavit**"), the Responding Motion Record of GrowthWorks WV Management Ltd. (the "**Former Manager**"), including the affidavit of Derek Lew sworn on December 23, 2022, the Reply Motion

Record of the Fund, including the affidavit of C. Ian Ross sworn on January 6, 2023, and the Thirtieth Report, and on hearing the submissions of counsel for the Applicant, the Former Manager and the Monitor, and such other counsel that were present as listed on the Participant Slip, no one else appearing although properly served as appears from the affidavit of service, filed:

INTERPRETATION

1. **THIS COURT ORDERS** that, in addition to terms defined elsewhere herein, (i) capitalized terms used, but not defined, herein shall have the meanings given to them in the Initial Order, and (ii) the following terms shall have the following meanings:

a. "**Applicable Law**" means:

i. any applicable domestic or foreign law including any statute, subordinate legislation or treaty, as well as the common law; and

ii. any applicable and enforceable rule, regulation, requirement, order, judgment, injunction, award or decree of a Governmental Authority.

b. "**Available Cash**" means the available cash and cash equivalents of the Applicant;

c. "**Business Day**" means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;

d. "**CCAA Proceedings**" means the within proceedings in respect of the Applicant under the CCAA;

e. "**CCAA Termination Date**" means the date on which that the Monitor delivers the Monitor's CCAA Completion Certificate (defined below);

f. "**CCAA Termination Time**" means such time on the CCAA Termination Date as the Monitor may determine and designate in the Monitor's CCAA Completion Certificate (defined below);

g. "**Class A Distribution Pool**" means, in respect of any Distribution, the Available

Cash on the Distribution Record Date for such Distribution less (i) the aggregate amount of any Distributions to be made pursuant to paragraph 9 of this Order and any further order of this Court made pursuant to paragraph 10 of this Order, (ii) any amounts due and owing to creditors of the Applicant on such Distribution Record Date, (iii) the estimated costs of the Applicant in making such Distribution, and (iv) a reserve for the estimated costs of the Applicant, the Monitor and their respective Representatives from such Distribution Record Date to the CCAA Termination Time, in each case determined by the Applicant in consultation with the Monitor;

h. "**Class A Eligible Shareholder**" means, in respect of any Distribution, a holder of one or more Class "A" shares of the Applicant as of the close of business on the Distribution Record Date for such Distribution that has not been barred from receiving distributions pursuant to paragraphs 11 or 13 hereof;

i. "**Court**" means the Ontario Superior Court of Justice (Commercial List);

j. "**Director**" means any Person who, as at the CCAA Termination Time, is a former or current director or officer of the Applicant or any other Person of a similar position or who by Applicable Law is deemed to be or is treated similarly to a director or officer of the Applicant or who currently manages or supervises the management of the business and affairs of the Applicant or did so in the past;

k. "**Distribution**" means a distribution to be made pursuant to this Order;

l. "**Distribution Date**" means the date on which a Distribution is made pursuant to this Order as designated in a Monitor's Distribution Certificate (defined below);

m. "**Distribution Record Date**" means, in respect of any Distribution, the date that is seven Business Days prior to the date upon which such Distribution is made;

n. "**Filing Date**" means October 1, 2013;

o. "**Governmental Authority**" means any domestic or foreign legislative, executive, judicial or administrative body or person having jurisdiction in the relevant

circumstances;

p. "**including**" means including, without limitation;

q. "**Initial Order**" means the initial order of the Court made in the CCAA Proceedings on October 1, 2013, as amended and restated on October 29, 2013;

r. "**Monitor's Website**" means the website established by the Monitor in respect of the CCAA Proceedings;

s. "**Person**" means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade union, government authority or any agency, regulatory body or officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity;

t. "**Released Claims**" means any and all demands, claims (including claims for contribution or indemnity), actions, causes of action, counterclaims, suits, debts, sums of money, liabilities, accounts, covenants, damages, judgments, orders (including orders for injunctive relief or specific performance and compliance orders), expenses, executions, encumbrances and recoveries on account of any liability, obligation, demand or cause of action of whatever nature (including for, in respect of or arising out of environmental matters, pensions or post-employment benefits or alleged oppression, misrepresentation, wrongful conduct, fraud or breach of fiduciary duty by the Applicant or any of its Representatives) that any Person has or may be entitled to assert, whether known or unknown, matured or unmatured, contingent or actual, direct, indirect or derivative, at common law, in equity or under statute, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing, matter or occurrence existing or taking place at or prior to the CCAA Termination Time, that in any way relate to or arise out of or in connection

with (i) the assets, obligations, business or affairs of the Applicant, including the investment portfolio of the Applicant; or (ii) the CCAA Proceedings or any matter, transaction or occurrence involving the Applicant, the Monitor or any of their respective Representatives occurring in or in connection with the CCAA Proceedings, but "Released Claims" does not include a claim that cannot be compromised due to the provisions of subsection 5.1(2) of the CCAA;

u. "**Released Parties"** means each of the Directors, the Monitor and its Representatives and the Applicant's Representatives;

v. "**Representatives**" means, in relation to a Person, such Person's current and former directors, officers, partners, employees, consultants, legal counsel, accountants, auditors, actuaries, advisors and agents, the current and former directors, officers, partners and employees of any such consultant, legal counsel, accountant, auditor, actuary, advisor or agent, and, in each case, including their respective heirs, executors, administrators and other legal representatives, successors and assigns; and

w. "**Service List**" means the service list in the CCAA Proceedings.

STAY EXTENSION

2. **THIS COURT ORDERS** that the Stay Period is hereby extended until and including the earlier of: (i) December 31, 2024; and (ii) the CCAA Termination Time (the "**Stay Extension Period**").

COMPLETION OF ORDERLY LIQUIDATION

3. **THIS COURT ORDERS** that, during the Stay Extension Period, the Applicant may continue to take such steps as the Applicant, in consultation with Crimson Capital (for so long as Crimson Capital continues to serve as an investment advisor to the Fund) and the Monitor, determines is appropriate to effect an orderly liquidation of its investment portfolio.

4. **THIS COURT ORDERS** that if the Applicant, in consultation with Crimson Capital (for so long as Crimson Capital continues to serve as an investment advisor to the Fund) and the Monitor,

determines that it is no longer appropriate to continue its efforts to liquidate its investment portfolio considering the proceeds likely to be realized, the estimated cost of such efforts and such other factors as the Applicant, in consultation with the Monitor, determines relevant in the circumstances, the Applicant may cease taking any further steps to liquidate its investment portfolio.

5. **THIS COURT ORDERS** that, upon the Applicant ceasing to take any further steps to liquidate its investment portfolio, the Applicant, in consultation with the Monitor, may donate any security held by the Applicant to one or more charities or otherwise deal with any security held by the Applicant in the manner determined by the Applicant, in consultation with the Monitor, or in accordance with further order of this Court.

AUTHORIZATION OF DISTRIBUTIONS

6. **THIS COURT ORDERS** that the Applicant or its transfer agent or other third party appointed by the Applicant, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Applicant, may make one or more Distributions from the Class A Distribution Pool to Class A Eligible Shareholders in accordance with the respective terms of the various outstanding series of Class "A" shares of the Applicant.

7. **THIS COURT ORDERS** that, on each Distribution Date, the Monitor shall serve on the Service List and post on the Monitor's Website, a certificate in the form attached as **Schedule "A"** hereto (a "**Monitor's Distribution Certificate**") certifying that a Distribution has been made and specifying the aggregate amount of the Distribution to Class A Eligible Shareholders and the amount of the Distribution made on account of each Class "A" share held by a Class A Eligible Shareholder pursuant to this Order.

8. **THIS COURT ORDERS** that any Distribution to a Class A Eligible Shareholder shall be made by (i) cheque sent by prepaid ordinary mail to the address of such Class A Eligible Shareholder on file with the Applicant or its transfer agent on the Distribution Record Date for such Distribution, or (ii) electronic transfer of immediately available funds to an account designated in writing by such Class A Eligible Shareholder.

9. **THIS COURT ORDERS** that, on the initial Distribution Date, the Applicant or its transfer

agent or other third party appointed by the Applicant, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Applicant, may make a Distribution to the holder of the Class "B" shares of the Applicant as of such Distribution Record Date in accordance with the terms of the Class "B" shares of the Applicant by (i) cheque sent by prepaid ordinary mail to the address of the applicable shareholder on file with the Applicant or its transfer agent on the Distribution Record Date for such Distribution, or (ii) electronic transfer of immediately available funds to an account designated in writing by the applicable shareholder.

10. **THIS COURT ORDERS AND DECLARES** that the entitlement of the holder of the Class "C" shares of the Applicant to receive any further dividends or payments on account of those shares, and the priority of any such dividends or payments, shall be subject to further order of this Court.

11. **THIS COURT ORDERS** that the Applicant and any other Person facilitating payments pursuant to this Order will be entitled to deduct and withhold from any such payment to any Person such amounts as may be required to be deducted or withheld under any Applicable Law and to remit such amounts to the appropriate Governmental Authority or other Person entitled thereto. To the extent that amounts are so withheld or deducted and remitted to the appropriate Governmental Authority or other Person, such withheld or deducted amounts will be treated for all purposes hereof as having been paid to such Person as the remainder of the payment in respect of which such withholding or deduction was made. Any Class A Eligible Shareholder whose address on file with the Applicant or its transfer agent on the applicable Distribution Record Date is not a Canadian address will be treated as a non-resident of Canada for purposes of any applicable non-resident withholding tax on all payments hereunder, subject to receipt by the Applicant of information satisfactory to it (in their sole discretion) that such Class A Eligible Shareholder is not a non-resident. No gross-up or additional amount will be paid on any payment hereunder to the extent the Applicant or any other Person deducts or withholds amounts pursuant to this paragraph. Notwithstanding any withholding or deduction, each Person receiving a payment will have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any Governmental Authority (including income and other tax obligations on account of such distribution).

12. **THIS COURT ORDERS** that, if any Distribution made to a Class A Eligible Shareholder under this Order is returned as undeliverable or is unable to be electronically transferred (an "**Undeliverable Distribution**"), then neither the Applicant nor the Monitor will be required to make further efforts to deliver such Distribution to such Class A Eligible Shareholder unless and until the Applicant and Monitor are notified in writing by such Class A Eligible Shareholder of such Class A Eligible Shareholder's current address or provides written transfer instructions acceptable to the Applicant and the Monitor in their sole discretion, at which time all such Distributions will be made to such Class A Eligible Shareholder. The obligations of the Applicant and Monitor to a Class A Eligible Shareholder with respect to an Undeliverable Distribution will expire on the first Business Day that is six months following the applicable Distribution Date, after which date any entitlement with respect to such Undeliverable Distribution and any further Distributions pursuant to this Order will be forever released, discharged and barred, without any compensation therefor. No interest will be payable in respect of an Undeliverable Distribution. On the first Business Day that is six months following the applicable Distribution Date for an Undeliverable Distribution, the amount of any Undeliverable Distribution will be released to the Applicant and form part of Available Cash.

13. **THIS COURT ORDERS** that, if any cheque or electronic transfer on account of a Distribution to a Class A Eligible Shareholder under this Order is not cashed or accepted, as applicable, within six months after the date of the applicable Distribution Date (an "**Uncashed Distribution**"):

a. such cheque may be cancelled by the Applicant, the Monitor or any other Person facilitating payments pursuant to this Order, as applicable, after which date any entitlement with respect to such Distribution and any further Distributions pursuant to this Order will be forever discharged and forever barred and the obligations of the Applicant and Monitor with respect thereto will expire, without any compensation therefor; and

b. the amount otherwise payable pursuant to such cancelled cheque will be released to the Applicant and form part of Available Cash.

14. **THIS COURT ORDERS** that all amounts to be paid by the Applicant hereunder will be

calculated by the Applicant, with the assistance of the Monitor. All calculations made by the Applicant will be conclusive, final and binding upon Class A Eligible Shareholders, the Applicant and any other Person, absent manifest error.

15. **THIS COURT ORDERS** that, if at any time the Applicant determines, in consultation with the Monitor, that the costs of making a Distribution are likely to exceed the remaining Available Cash, the Applicant, in consultation with the Monitor, may donate any portion of the remaining Available Cash to one or more charities or otherwise deal with the Available Cash in the manner determined by the Applicant and the Monitor or in accordance with further order of this Court.

16. **THIS COURT ORDERS AND DECLARES** that notwithstanding: (i) the pendency of these CCAA Proceedings; (ii) any applications for a bankruptcy, receivership or other order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), the CCAA or otherwise in respect of the Applicant and any bankruptcy, receivership or other order issued pursuant to any such applications; and (iii) any assignment in bankruptcy made or deemed to be made in respect of the Applicant, all Distributions and payments contemplated by this Order will not constitute nor be deemed to constitute a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA, CCAA or any other applicable federal, provincial or territorial legislation, nor will any Distribution or payment contemplated by this Order constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal, provincial or territorial legislation.

17. **THIS COURT ORDERS AND DECLARES** that any distributions, payments or deliveries under this Order made or assisted by the Monitor shall not constitute a "distribution" and the Monitor shall not constitute a "legal representative" or "representative" of the Applicant or "other person" for the purposes of section 159 of the *Income Tax Act* (Canada), section 270 of the *Excise Tax Act* (Canada), section 46 of the *Employment Insurance Act* (Canada), section 22 of the *Retail Sales Tax Act* (Ontario), section 107 of the *Corporations Tax Act* (Ontario), or any other similar federal, provincial or territorial tax legislation (collectively, the "**Statutes**"), and the Monitor in making any such payments or deliveries of funds or assets in relation to this Order is not "distributing", not shall it be considered to have "distributed", such funds or assets for the purposes

of the Statutes, and the Monitor shall not incur any liability under the Statutes for making any payments or deliveries under this Order or failing to withhold amounts, ordered or permitted hereunder, and the Monitor shall not have any liability for any of the Applicant's tax liabilities regardless of how or when such liabilities may have arisen, and is hereby forever released, remised and discharged from any claims against it under or pursuant to the Statutes or otherwise at law, arising as a result of the distributions and deliveries under this Order and any claims of this nature are hereby forever barred.

ORDERS IN THE CCAA PROCEEDINGS

18. **THIS COURT ORDERS** that:

a. except to the extent that the Initial Order has been varied by or is inconsistent with this Order or any further Order of this Court, the provisions of the Initial Order shall remain in full force and effect until the CCAA Termination Time;

b. the releases, injunctions and prohibitions provided for in the Claims Procedure Order issued in the CCAA Proceedings and dated January 9, 2014 and the Post-Filing Claims Procedure Order issued in the CCAA Proceedings and dated November 30, 2021, be and are hereby confirmed and shall operate in addition to the provisions of this Order, including the releases, injunctions and prohibitions provided for hereunder and thereunder, respectively; and

c. all other Orders made in the CCAA Proceedings shall continue in full force and effect in accordance with their respective terms, except to the extent that such Orders are varied by this Order or any further Orders of this Court in the CCAA Proceedings.

19. **THIS COURT ORDERS** that the Applicant and the Monitor shall have all of the protections given to them by the CCAA, the Initial Order and any further order issued by the Court in the CCAA Proceedings and that none of the Applicant, the Directors, the Monitor or their respective Representatives shall incur any liability or obligation as a result of carrying out their

obligations under, or exercising any authority or discretion granted by, this Order.

TERMINATION, DISCHARGE AND DISSOLUTION

20. **THIS COURT ORDERS** that immediately upon the Monitor serving on the Service List, posting on the Monitor's Website and filing with the Court a certificate substantially in the form attached as **Schedule "B"** hereto (the "**Monitor's CCAA Completion Certificate**") certifying the completion of all matters to be attended to in connection with the CCAA Proceedings to the satisfaction of the Monitor, the CCAA Proceedings are hereby terminated without any other act or formality and the Administration Charge and Directors' Charge (as each are defined in the Initial Order) shall be terminated, released and discharged.

21. **THIS COURT ORDERS** that, from and after the CCAA Termination Time, the Applicant shall be dissolved without any further act or formality, including any approval, consent or authorization of any shareholder or other security holder of the Applicant or any Governmental Authority, provided, however, that the Applicant shall cause to be filed with the appropriate Governmental Authority such articles, agreements or other documents of dissolution for the Applicant to the extent required by Applicable Law.

22. **THIS COURT ORDERS** that at the CCAA Termination Time, without any further act or formality, FTI is hereby discharged from its duties as Monitor and has no further duties, obligations, or responsibilities as Monitor from and after the CCAA Termination Time; provided however, notwithstanding the discharge of FTI as Monitor, the Monitor shall have the authority to carry out, complete or address any matters that are ancillary or incidental to the CCAA Proceedings following the CCAA Termination Time, as may be required (collectively, the "**Monitor Incidental Matters**") and shall be entitled to act as Monitor in relation to such Monitor Incidental Matters.

23. **THIS COURT ORDERS** that, notwithstanding any provision of this Order, the termination of the CCAA Proceedings or the discharge of the Monitor, (i) nothing herein shall affect, vary, derogate from, limit or amend, and FTI and its legal counsel shall continue to have the benefit of, all of the rights, approvals, releases, and protections in favour of the Monitor and its legal counsel at common law or pursuant to the CCAA, the Initial Order, or any other order of this Court in the

CCAA Proceedings, all of which are expressly continued and confirmed, including in connection with any Monitor Incidental Matters or any other actions taken by the Monitor pursuant to this Order following the CCAA Termination Time, and (ii) nothing herein impacts the validity of any orders of this Court made in the CCAA Proceedings or any actions or steps taken by any Person pursuant to or as authorized by any orders of this Court made in the CCAA Proceedings.

RELEASES

24. **THIS COURT ORDERS AND DECLARES** that, as at the CCAA Termination Time, the Released Parties are hereby fully, finally and irrevocably released and discharged from all Released Claims and any such Released Claims are hereby released, stayed, extinguished and forever barred and the Released Parties shall have no liability or obligation in respect thereof, provided that the Released Claims shall not include any claim or liability arising out of gross negligence or willful misconduct on the part of the applicable Released Party.

25. **THIS COURT ORDERS** that, as at the CCAA Termination Time, all Persons shall be and shall be deemed to be permanently and forever barred, estopped, stayed and enjoined from: (i) commencing, conducting, continuing or making in any manner or forum, directly or indirectly, any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative or other forum) against any of the Released Parties with respect to any and all Released Claims; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against any of the Released Parties or their property with respect to any and all Released Claims; (iii) commencing, conducting, continuing or making against any other Person in any manner or forum, directly or indirectly, any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative or other forum) that relates to a Released Claim if such other Person commences, conducts, continues or makes a claim or might reasonably be expected to commence, conduct, continue or make, directly or indirectly, any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative or other forum), including by way of contribution or indemnity or other relief, against one or more of the Released Parties, unless such

claim of such other Person is itself a Released Claim; and (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any encumbrance of any kind against any of the Released Parties or their property or assets with respect to any and all Released Claims.

26. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against of the Released Parties in any way arising from or related to the CCAA Proceedings, except with prior leave of this Court and on prior written notice to the applicable Released Parties.

APPROVAL OF MONITOR ACTIVITIES

27. **THIS COURT ORDERS AND DECLARES** that each of the Reports and the respective activities and conduct of the Monitor as described therein be and are hereby ratified and approved.

28. **THIS COURT ORDERS AND DECLARES** that the Monitor has satisfied all of its obligations up to and including the date of this Order and all claims of any kind or nature against the Monitor arising from or relating to these CCAA Proceedings up to and including the date of this Order are hereby barred, extinguished and released save and except for claims of gross negligence or wilful misconduct on the part of the Monitor.

29. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA and the powers provided to the Monitor herein and under the other Orders of this Court, shall be and is hereby authorized, directed and empowered to perform its functions and fulfill its obligations under this Order and to complete all matters incidental to the termination of the CCAA Proceedings.

APPROVAL OF FEES

30. **THIS COURT ORDERS** that (i) the fees and disbursements of the Monitor from June 1, 2017 to October 31, 2022 totaling CAD $521,267.76 (including HST) and its estimate of fees and disbursements from November 1, 2022 through completion of its remaining activities in connection with these CCAA Proceedings of $355,000 (excluding HST) and (ii) the fees and disbursements of legal counsel to the Monitor from May 1, 2017 to October 31, 2022 totaling CAD$194,204.75 (including HST) and its estimate of fees and disbursements from November 1, 2022 through

completion of the remaining activities in connection with these CCAA Proceedings of CAD$120,000 (excluding HST), be and are hereby approved.

31. **THIS COURT ORDERS** that the Monitor and its legal counsel shall not be required to pass any further accounts in these CCAA Proceedings unless otherwise requested by the Applicant.

EXTENSION OF SECOND AMENDED AND RESTATED IAA

32. **THIS COURT ORDERS** that the Applicant is authorized to execute and deliver an Extension Notice extending the Term of the Second Amended and Restated IAA to and including the last day of the Stay Extension Period (the "**Extended Term**") and that such extension is hereby approved (as each term is defined in the Second Amended and Restated IAA).

33. **THIS COURT ORDERS** that the Applicant is authorized to continue to perform its obligations under the Second Amended and Restated IAA during the Extended Term.

34. **THIS COURT ORDERS** that paragraphs 4 to 7 of the Stay Extension Order of the Honourable Mr. Justice Hainey made March 22, 2019 shall continue to apply during the Extended Term.

SEALING ORDER

35. **THIS COURT ORDERS** that Confidential Exhibit "H" to the Ross Affidavit, which contains a confidential summary of the Fund's significant remaining investments shall be kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the court file for these proceedings, in a sealed envelope attached to a notice that sets out the title of these proceedings and the statement that the contents are subject to this Motion and sealing Order, and remain under seal until further Order of this Court.

NOTICE

36. **THIS COURT ORDERS** that, as soon as practicable after the granting of this Order, the Monitor shall cause a copy of this Order to be posted on the Monitor's Website, and the Applicant shall serve a copy on the parties on the Service List and those parties who appeared at the hearing of

the motion for this Order.

37. **THIS COURT ORDERS** that the measures in paragraph 36 shall constitute good and sufficient service and notice of this Order on all Persons who may be entitled to receive notice thereof or who may have an interest in these proceedings, and no other form of notice or service need be made on such Persons and no other document or material need be served on such Persons in respect of these proceedings.

GENERAL

38. **THIS COURT ORDERS** that notwithstanding any other provision of this Order, the Applicant and the Monitor shall each remain entitled to seek advice, directions or assistance from the Court in respect of any matters arising from or in relation to the matters set out herein.

39. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all persons against whom it may be enforceable.

40. **THIS COURT ORDERS** that this Order is effective from the date that it is made, and is enforceable without any need for entry and filing.

41. **THIS COURT ORDERS** that the Applicant and the Monitor shall be at liberty and are 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.

42. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court of any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada) and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province or territory of Canada and any court or any judicial, regulatory or administrative body of the United States of America, and of any other nation or state, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

SCHEDULE "A"

FORM OF MONITOR'S DISTRIBUTION CERTIFICATE

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

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 PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO GROWTHWORKS CANADIAN FUND LTD.

MONITOR'S DISTRIBUTION CERTIFICATE

WHEREAS pursuant to the Order of this Court dated October 1, 2013, as amended and restated on October 29, 2013, FTI Consulting Canada Inc. was appointed as the monitor (the "**Monitor**") of the Applicant;

AND WHEREAS pursuant to the Order of this Court dated January 19, 2023 (the "**Distribution, Termination and Discharge Order**"), this Court authorized the Applicant or its transfer agent or other third party appointed by the Applicant, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Applicant, to make one or more Distributions from Available Cash to Eligible Shareholders;

AND WHEREAS paragraph 7 of the Distribution, Termination and Discharge Order requires the Monitor, on each Distribution Date, to serve on the Service List and post on the Monitor's Website a certificate certifying that a Distribution has been made and specifying the aggregate amount of the Distribution and the amount of the Distribution made on account of each Class "A" share held by an Eligible Shareholder;

AND WHEREAS a Distribution has been made;

AND WHEREAS all capitalized terms used, but not defined, herein shall have the meanings

given to them in the Distribution, Termination and Discharge Order.

THE MONITOR HEREBY CERTIFIES that:

1. a Distribution was made on _____, which is a Distribution Date for the purposes of the Distribution, Termination and Discharge Order;

2. the aggregate amount of the Distribution to Class A Eligible Shareholders was $_____; and

3. the amount of the Distribution made on account of each Class "A" share held by a Class A Eligible Shareholder was $_____.

FTI Consulting Canada Inc., solely in its capacity as court appointed monitor of the Applicant, and not in its personal capacity or in any other capacity

Per: _____

Name:

Title:

SCHEDULE "B"

FORM OF MONITOR'S CCAA COMPLETION CERTIFICATE

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

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 PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO GROWTHWORKS CANADIAN FUND LTD.

MONITOR'S CCAA COMPLETION CERTIFICATE

WHEREAS pursuant to the Order of this Court dated October 1, 2013, as amended and restated on October 29, 2013, FTI Consulting Canada Inc. was appointed as the monitor (the "**Monitor**") of the Applicant;

AND WHEREAS pursuant to the Order of this Court dated January 19, 2023 (the "**Distribution, Termination and Discharge Order**"), this Court authorized the Applicant to cease taking any further steps to liquidate its investment portfolio if the Applicant, in consultation with Crimson Capital (for so long as Crimson Capital continues to serve as an investment advisor to the Applicant) and the Monitor, determined that it was no longer appropriate to continue those efforts considering the proceeds likely to be realized and the cost of such efforts;

AND WHEREAS the Monitor is satisfied that the Applicant has taken appropriate steps to effect an orderly liquidation of its investment portfolio;

AND WHEREAS pursuant to the Distribution, Termination and Discharge Order, this Court authorized the Applicant or its transfer agent or other third party appointed by the Applicant, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Applicant, to make one or more Distributions;

AND WHEREAS one or more Distributions have been made in accordance with the Distribution, Termination and Discharge Order;

AND WHEREAS the Applicant has determined, in consultation with the Monitor, that the costs of making a further Distribution are likely to exceed the Available Cash;

AND WHEREAS paragraph 20 of the Distribution, Termination and Discharge Order requires that, upon the completion of all matters to be attended to in connection with the CCAA Proceedings to the satisfaction of the Monitor, the Monitor shall serve on the Service List, post on the Monitor's Website and file with the Court a certificate certifying that all matters to be attended to in connection with the CCAA Proceedings have been, to the satisfaction of the Monitor, attended to;

AND WHEREAS the Monitor is satisfied that all matters to be attended to in connection with the CCAA Proceedings have been attended to;

AND WHEREAS all capitalized terms used, but not defined, herein shall have the meanings given to them in the Distribution, Termination and Discharge Order.

THE MONITOR HEREBY CERTIFIES that:

1. All matters to be attended to in connection with the CCAA Proceedings have been attended to;

2. Upon the filing of this Monitor's CCAA Completion Certificate:

    a. the CCAA Proceedings shall be terminated;

    b. the Applicant shall be dissolved without any further act or formality, including any approval, consent or authorization of any shareholder or other security holder of the Applicant or any Governmental Authority;

    c. FTI Consulting Canada Inc. shall be discharged and released from its duties, obligations and responsibilities as Monitor of the Applicant and shall be forever

released, remised and discharged from any claims against it relating to its activities as Monitor of the Applicant;

d. the releases and injunctions provided for in the Distribution, Termination and Discharge Order shall become effective; and

e. the Administration Charge and Directors' Charge shall be terminated, released and discharged;

3. This Certificate is delivered by the Monitor on _____ at _____ which is the CCAA Termination Time for the purposes of the Distribution, Termination and Discharge Order.

FTI Consulting Canada Inc., solely in its capacity as court appointed monitor of the Applicant, and not in its personal capacity or in any other capacity

Per: _____

Name:

Title:

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

DISTRIBUTION, TERMINATION AND DISCHARGE ORDER

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Lawyers for the Applicant,
GrowthWorks Canadian Fund Ltd.

Tab C

This is Exhibit "**C**" referred to in the
Affidavit of **C. Ian Ross**
sworn before me December 11, 2024

DocuSigned by:
Meena Alnajar

A Commissioner for taking Affidavits (or as may be)
Meena Alnajar LSO #: 89626N

SECOND AMENDED AND RESTATED INVESTMENT ADVISOR AGREEMENT

THIS AGREEMENT is made as of March 18, 2019 between **CRIMSON CAPITAL INC.** (the "**Investment Advisor**"), a corporation incorporated under the laws of the Province of Ontario, and **GROWTHWORKS CANADIAN FUND LTD.** ("**GW CDN**"), a corporation incorporated under the laws of Canada.

RECITALS:

WHEREAS GW CDN is the owner of a portfolio of securities;

AND WHEREAS GW CDN wishes to retain the Investment Advisor to provide investment management and other services as described hereunder;

AND WHEREAS the Investment Advisor is willing to provide such investment management and other services as described hereunder;

AND WHEREAS the Parties (as defined herein) entered into an amended and restated investment advisor agreement made as of December 11, 2017 (the "**2017 Investment Advisor Agreement**");

AND WHEREAS the Parties wish to amend and restate the 2017 Investment Advisor Agreement in its entirety effective as of the Effective Date;

NOW THEREFORE in consideration of the premises, the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. INTERPRETATION

1.1 Definitions

In this Agreement, the following terms have the following meanings:

"**Additional Fee**" shall have the meaning set out in Section 6.3;

"**Additional Term**" shall have the meaning set out in Section 8.1;

"**Affiliate**" means with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with, such specified Person;

"**Agreement**" means this Amended and Restated Investment Advisor Agreement between the Investment Advisor and GW CDN, as amended, supplemented or restated from time to time;

"**Applicable Law**" means any applicable domestic or foreign law, including any statute, subordinate legislation or treaty, including the CCAA and the *Securities Act* (Ontario), and any applicable guideline, directive, rule, standard, requirement, policy, order

(including an order of the Court in connection with the CCAA Proceedings or otherwise) judgment, injunction, award or decree of a Governmental Authority having the force of law;

"**Approval Order**" means an Order *inter alia* approving this Agreement on terms satisfactory to the Investment Advisor, GW CDN and the Monitor;

"**Board of Directors**" means the board of directors of GW CDN;

"**Business Day**" means any day, other than a Saturday, Sunday or statutory or civic holiday, on which banks are open for business in Toronto, Ontario;

"**CCAA**" means *Companies' Creditors Arrangement Act* (Canada);

"**CCAA Proceedings**" means the proceedings under the CCAA relating to the restructuring of GW CDN;

"**Confidential Information**" means all data and information of a confidential nature, in any form (written, oral, electronic or any other form or media) and of any nature whatsoever, relating to the Portfolio, any Portfolio Company or GW CDN, investment strategies and techniques, financial or accounting data or activities provided or disclosed by or on behalf of GW CDN, the Monitor or any of their respective Representatives to the Investment Advisor or any of its Representatives, but does not include information that has otherwise been made available to the public other than by a breach of this Agreement by the Investment Advisor or any of its Representatives;

"**Contract Period**" means the 9 month period commencing on April 1, 2019 and includes the three month period of any Additional Term;

"**Control**" means, with respect to the relationship between or among two or more Persons, the possession, directly or indirectly, of the power to direct or cause the direction of the affairs or management of a Person, whether through the ownership of voting securities, as trustee or executor, by contract or any other means;

"**Court**" means the Ontario Superior Court of Justice, Commercial List (Toronto), presiding over the CCAA Proceedings;

"**Dispute**" shall have the meaning set out in Section 10.1.1;

"**Dispute Notice**" shall have the meaning set out in Section 10.1.1;

"**D&O Insurance Premiums**" means any directors and officers insurance premiums incurred with respect to any Representative of the Investment Advisor in connection with the provision by the Investment Advisor of the services hereunder (other than Excluded D&O Insurance Premiums);

"**Effective Date**" means the later of (i) the date this Agreement is approved by the Court; and (ii) April 1, 2019;

"**Escrowed Proceeds Arrangements**" shall have the meaning set out in the definition of Excluded Proceeds in Section 1.1;

"**Excluded D&O Insurance Premiums**" means D&O Insurance Premiums incurred with respect to any Representative of the Investment Advisor (other than Donna Parr) who has not been approved in writing by GW CDN, for purposes of reimbursement of D&O Insurance Premiums hereunder, prior to such premiums being incurred;

"**Excluded Proceeds**" means any proceeds received by GW CDN or the Monitor (on behalf of GW CDN) from (i) the collection of escrowed proceeds, including milestone payments, deferred purchase price consideration and earn-out payments, but only to the extent such escrowed proceeds relate to dispositions of assets made by GW CDN prior to December 8, 2015, unless GW CDN collects such escrowed proceeds prior to the date on which it is otherwise contractually entitled directly as a result of arrangements ("**Escrowed Proceeds Arrangements**") made by the Investment Advisor which are approved by GW CDN pursuant to Section 4.1.1 during the Term or an Additional Term, if applicable, in which case such collected escrowed proceeds (hereinafter referred to as "**IA Advanced Proceeds**") shall not constitute Excluded Proceeds for the purposes hereof; or (ii) any cash held on December 8, 2015 by MedInnova Partners Inc.;

"**Extension Notice**" shall have the meaning set out in Section 8.1;

"**Follow-on Financing**" shall have the meaning set out in Section 4.1.5;

"**Follow-on Financing Notice**" shall have the meaning set out in Section 4.1.5;

"**Governmental Authority**" means any domestic or foreign legislative, executive, judicial or administrative body or person having or purporting to have jurisdiction in the relevant circumstances and includes, without limitation, the Court;

"**GW CDN**" shall have the meaning set out in the preamble;

"**IA Advanced Proceeds**" shall have the meaning set out in the definition of Excluded Proceeds in Section 1.1;

"**Investment Advisor**" shall have the meaning set out in the preamble;

"**Investor Agreements**" means all shareholders' agreements, investor agreements, investor rights agreements, registration rights agreements and similar agreements affecting the interest of GW CDN in the Portfolio Securities;

"**Knowledge**" means, with respect to GW CDN, the actual knowledge of C. Ian Ross;

"**Legal Expenses**" shall have the meaning set out in Section 6.2.2;

"**Losses**" shall have the meaning set out in Section 7.1;

"**Monitor**" means FTI Consulting Canada Inc. or its successors in its capacity as Court-appointed monitor to GW CDN in the CCAA Proceedings;

"**Monthly Fee**" shall have the meaning set out in Section 6.1;

"**Net Proceeds**" means, in respect of any period, (i) the aggregate proceeds of disposition received by GW CDN or the Monitor (on behalf of GW CDN) during such period from the disposition of Portfolio Securities completed during such period, less reasonable third party costs and expenses (other than costs and expenses incurred by GW CDN and not at the direction of the Investment Advisor) attributable to such disposition; (ii) any IA Advanced Proceeds received by GW CDN or the Monitor (on behalf of GW CDN) during such period, less reasonable third party costs and expenses (other than costs and expenses incurred by GW CDN and not at the direction of the Investment Advisor) attributable to such IA Advanced Proceeds; and (iii) the aggregate proceeds received by GW CDN or the Monitor (on behalf of GW CDN) during such period from the disposition of all of the outstanding Class A shares of GW CDN to an arm's length third party during such period directly as a result of arrangements made by the Investment Advisor which are approved in writing and in advance by GW CDN, less reasonable third party costs and expenses (other than costs and expenses incurred by GW CDN and not at the direction of the Investment Advisor) attributable to such disposition; excluding in each case any Excluded Proceeds;

"**Order**" means an order of the Court;

"**Other Clients**" shall mean clients other than GW CDN to which the Investment Advisor provides investment management or advisory services;

"**Parties**" shall mean the Investment Advisor and GW CDN, collectively, and "**Party**" shall mean either one of them;

"**Person**" includes any individual, partnership, joint venture, limited liability company, unlimited liability company, association, trust, trustee, executor, administrator, legal personal representative, body corporate, corporation or unincorporated association or organization, whether or not having legal status;

"**Portfolio**" shall mean the portfolio of Portfolio Securities;

"**Portfolio Companies**" means each of the companies listed on Schedule A, other than those companies the securities of which GW CDN sold, or otherwise disposed of, after December 8, 2015;

"**Portfolio Securities**" means the securities of the Portfolio Companies held by or on behalf of GW CDN from time to time, including securities acquired by GW CDN pursuant to Follow-on Financings and securities acquired or received pursuant to stock divisions, stock dividends, stock consolidations or other reorganisations of Portfolio Companies;

"**Receivable**" means, in respect of any Net Proceeds, those Net Proceeds which (i) arise from a disposition of Portfolio Securities or Class A shares of GW CDN or the collection of IA Advanced Proceeds, as applicable, in each case arranged by the Investment Advisor during the Term or an Additional Term, (ii) are, by the terms of such arrangements, not to be (and are not) received by GW CDN or the Monitor (on behalf of GW CDN) until after the end of the Term or an Additional Term, as applicable, and (iii) would have been included in the calculation of an Additional Fee if the transaction resulting from such arrangements had occurred during the Term or an Additional Term, as applicable;

"**Representatives**" means, in respect of either Party, the directors, officers, employees, agents and advisors (including financial advisors and legal counsel) of that Party and the directors, officers and employees of any agent or advisor of that Party and (i) in the case of GW CDN, includes the Monitor and its officers, directors, limited partners, employees, agents and advisors, and (ii) in the case of the Investment Advisor, excludes Roseway Capital S.a.r.l. and its respective Affiliates, general and limited partners and any officer, director, employee, agent or advisor (financial, accounting, legal or otherwise) of Roseway Capital S.a.r.l. or such Affiliate, general or limited partner, agent or advisor;

"**Roseway Investment Advisor Agreement**" means the investment advisor agreement dated as of May 9, 2014 between Roseway Capital S.a.r.l. and GW CDN, as amended, restated, modified or supplemented from time to time;

"**Tail Period**" means the period commencing on and including the date of termination of this Agreement and ending on and including the six month anniversary of such date of termination;

"**Term**" shall have the meaning set out in Section 8.1; and

"**Transaction Expenses**" shall have the meaning set out in Section 6.2.1.

1.2 Headings

In this Agreement, headings are for convenience of reference only, do not form a part of this Agreement and are not to be considered in the interpretation of this Agreement.

1.3 Interpretation

In this Agreement,

1.3.1 Words importing the masculine gender include the feminine and neuter genders and words in the singular include the plural, and vice versa, wherever the context requires;

1.3.2 All references to designated Articles, Sections, other subdivisions and Schedules are to the designated Articles, Sections, other subdivisions and Schedules of this Agreement;

1.3.3 All accounting terms not otherwise defined will have the meanings assigned to them by, and all computations to be made will be made in accordance with, generally accepted accounting principles in Canada from time to time consistently applied;

1.3.4 Any reference to a law or statute will include and will be deemed to include a reference to the rules and regulations made pursuant to it, and any reference to a law or statute or regulation shall be deemed to include all amendments made to the law, statute or regulations in force from time to time, and to any law, statute or regulation that may be passed which has the effect of supplementing or superseding the law or statute referred to or the relevant regulation;

1.3.5 Any reference to a Person will include and will be deemed to be a reference to any Person that is a successor to that Person;

1.3.6 "hereof, 'hereto'', "herein", and "hereunder" mean and refer to this Agreement and not to any particular Article, Section or other subdivision. The term "including" means "including without limiting the generality of the foregoing"; and

1.3.7 References in this Agreement to the Monitor will be applicable only to the extent that GW CDN remains, at the relevant time, subject to the CCAA Proceedings. From and after the date, if any, on which GW CDN ceases to be subject to the CCAA Proceedings, all references herein to the Monitor will be deemed to be a reference to GW CDN.

1.4 Currency

All references to currency herein are references to lawful money of Canada.

2. APPOINTMENT OF INVESTMENT ADVISOR

2.1 Appointment

Upon and subject to the terms and conditions hereof and subject to obtaining the Approval Order, GW CDN hereby appoints, effective as of the Effective Date, the Investment Advisor as investment advisor to GW CDN with full authority and responsibility to provide or cause to be provided to GW CDN the investment management and administrative services hereinafter set forth in respect of the Portfolio and the Investment Advisor hereby accepts such appointment and agrees to act in such capacity and to provide or cause to be provided such investment management and administrative services.

3. REPRESENTATIONS AND WARRANTIES OF GW CDN AND THE INVESTMENT ADVISOR

3.1 Representations and Warranties of GW CDN

3.1.1 GW CDN represents and warrants that:

3.1.1.1 it is a corporation incorporated under the laws of Canada and is validly subsisting under such laws;

3.1.1.2 subject to the Orders granted in the CCAA Proceedings, it has the corporate capacity and authority to perform its obligations under this Agreement and such obligations do not and will not conflict with or breach or result in a breach of any of its constating documents, by-laws or any agreements by which it is bound or any laws to which it is subject;

3.1.1.3 subject to the Orders granted in the CCAA Proceedings, it has duly executed and delivered this Agreement and this Agreement constitutes a legal, valid, binding and enforceable obligation of it;

3.1.1.4 to the Knowledge of GW CDN, it is the registered and beneficial owner of all of the Portfolio Securities, with good and valid title therto; and

3.1.1.5 to the Knowledge of GW CDN, the Portfolio Securities listed in Schedule A include all of the Portfolio Securities owned as of the date hereof by GW CDN.

3.2 Representations and Warranties of the Investment Advisor

3.2.1 The Investment Advisor represents and warrants that:

3.2.1.1 it has the capacity and authority to perform its obligations under this Agreement and such obligations do not and will not conflict with or breach or result in a breach of any agreement by which it is bound or any laws to which it is subject;

3.2.1.2 it has duly executed and delivered this Agreement and this Agreement constitutes a legal, valid, binding and enforceable obligation of the Investment Advisor;

3.2.1.3 it holds all necessary licenses, registrations and permits to fulfil its obligations under this Agreement and covenants to maintain all necessary licenses, registrations and permits to fulfil such obligations throughout the term of this Agreement; and

3.2.1.4 nothing has come to the attention of the Investment Advisor that would result in the representations and warranties of GW CDN in Sections 3.1.1.4 and 3.1.1.5, respectively, (disregarding for the purposes of this Section 3.2.1.4 any reference to the Knowledge of GW CDN in those Sections) being untrue or incorrect.

4. DUTIES AND RESPONSIBILITIES OF THE INVESTMENT ADVISOR

4.1 Duties Related to Portfolio

The Investment Advisor shall serve as investment advisor to GW CDN and make recommendations to the Board of Directors with respect to investment and divestment decisions in respect of the Portfolio, in each case in accordance with, and subject to the terms of this Agreement, the Investor Agreements and Applicable Law. Except for reports the form of which is already specified in this Agreement, any reports required to be prepared by the Investment Advisor hereunder may be prepared in excel spreadsheet format, which must be in a printable form, and if GW CDN requires any written report from the Investment Advisor in any other format than an excel spreadsheet, GW CDN shall be required to provide 30 days prior written notice thereof to the Investment Advisor together with a copy of a sample of such other format. Without limiting the generality of the foregoing, the Investment Advisor shall:

4.1.1 subject to having obtained the prior approval of the Board of Directors to dispose of, or invest in, Portfolio Securities or make any Escrowed Proceeds Arrangements (which determination by the Board of Directors as to whether to approve or refuse to approve any disposition of, or investment in, Portfolio Securities or Escrowed Proceeds Arrangements shall be made in the sole discretion of the Board of Directors and shall be provided within fifteen (15) Business Days (or the period referred to in the last sentence of Section 4.1.5, whichever is the lesser number of days) of receipt by GW CDN of a request for such approval), make all appropriate arrangements to implement such disposition of, or investment in, Portfolio Securities or Escrowed Proceeds Arrangements in the ordinary course and otherwise in accordance with the CCAA, including Sections 11.3, 32 and 36 thereof;

4.1.2 issue appropriate instructions to the custodian (or the sub-custodian) of the Portfolio Securities to facilitate delivery and settlement of Portfolio transactions;

4.1.3 monitor and use commercially reasonable efforts to enforce all of the rights of GW CDN under the Investor Agreements;

4.1.4 prepare and deliver to GW CDN and the Monitor quarterly written reports, in the form used by Crimson Capital Inc., in its capacity as sub-contractor to Roseway Capital S.a.r.l. under the Roseway Investment Advisor Agreement, during the 12 month period immediately preceding the effective date of termination of the Roseway Investment Advisor Agreement, with respect to any disposition transactions and the status of the Portfolio, including an assessment of the liquidity of each Portfolio Company, significant corporate developments involving the Portfolio Companies of which the Investment Advisor has been made aware, the Investment Advisor's estimation of when a divestment opportunity is likely to proceed and anticipated conditions to a divestment occurring (without any obligation to prepare a formal valuation of any Portfolio Security);

4.1.5 prepare and deliver to GW CDN and the Monitor a written notice (a "**Follow-on Financing Notice**') of any follow-on investment opportunity in a Portfolio Company in which GW CDN is entitled, or has been invited, to participate (each, a "**Follow-on Financing**"), promptly following the receipt by the Investment Advisor of information relating to such Follow-on Financing and analysis by the Investment Advisor of such Follow-on Financing. The Follow-on Financing Notice will include: (a) a copy of any notice and related term sheet or similar document received by the Investment Advisor from the applicable Portfolio Company in respect of such Follow-on Financing; (b) to the extent known by the Investment Advisor, the names of any other parties that plan on participating in such Follow-on Financing and the extent of their participation; (c) any other material terms and conditions of the proposed Follow-on Financing known to the Investment Advisor that would be considered necessary by a reasonable investor to make an investment decision; and (d) the date by which the Portfolio Company requires the Fund to exercise its right to participate in the Follow-on Financing. The Investment Advisor shall update the Follow-on Financing Notice if the Investment Advisor becomes aware of any change of the terms of the Follow-on Financing or any additional information that would have been included in the Follow-on Financing Notice becomes known to the Investment Advisor. GW CDN shall provide notice of its intention to participate in the Follow-on Financing not later than the day immediately preceding the date set out in clause (d) of this Section 4.1.5;

4.1.6 maintain or cause to be maintained at all times reasonably complete and accurate records, including in electronic form, relating to Portfolio transactions occurring during the Term, which records will be accessible for inspection by one or more Representatives of GW CDN and the Monitor at any time during ordinary business hours, upon reasonable notice;

4.1.7 deliver to GW CDN on an annual basis, an external hard drive or USB flash drive containing an electronic copy of all documents received by the Investment Advisor in relation to the Portfolio Companies during the most recently completed year, including the documentation delivered pursuant to Section 4.1.4;

4.1.8 permit one or more designated Representatives of GW CDN and the Monitor, respectively, access to view any records kept by the Investment Advisor and used for the preparation of the reports referenced in Section 4.1.4 during ordinary business hours, upon reasonable notice;

4.1.9 be responsible for monitoring and ensuring compliance by the Investment Advisor and its Representatives with all Applicable Laws directly relating to the management, investment or divestment of Portfolio Securities, provided that the Investment Advisor shall not be responsible for any compliance by GW CDN with Applicable Laws directly relating to GW CDN's status as a reporting issuer under applicable securities laws; and

4.1.10 carry out such other actions ancillary to the services to be provided under this Agreement as agreed to between the Parties, including providing GW CDN and the Monitor with such information which is related to the services provided under this Agreement as may be reasonably requested from time to time.

4.2 Delegation by the Investment Advisor

4.2.1 In carrying out its obligations hereunder, the Investment Advisor may not delegate any of its services or functions hereunder to any agents, advisors, sub-contractors or other Persons without the prior written consent of GW CDN and, where such consent is provided, any costs of such agents, advisors, sub-contractors or other Persons shall be for the account of the Investment Advisor.

4.2.2 In carrying out its obligations hereunder, the Investment Advisor may engage consultants with particular expertise in certain technology, sales or management with the prior written consent of GW CDN in which case the costs of such experts shall be for the account of and invoices shall be sent directly to GW CDN; provided that the Investment Advisor shall seek reimbursement for such consultants from the applicable Portfolio Company.

4.3 Standard of Care

4.3.1 The Investment Advisor covenants that it shall exercise its powers and discharge its duties and responsibilities hereunder, diligently, honestly and in good faith, and in the best interests of GW CDN and in connection therewith, shall exercise the degree of care, diligence and skill that a reasonably prudent, qualified and informed professional with a specialty and experience as an investment advisor would exercise in the same circumstances; provided that the Investment Advisor is required to follow the direction of GW CDN related to investment and disposition decisions in accordance with Section 4.3.3.

4.3.2 The Investment Advisor agrees to comply with all Applicable Laws insofar as such relate to the Investment Advisor's position as the investment advisor to GW CDN or its obligations hereunder.

4.3.3 Notwithstanding any other provision of this Agreement, the Investment Advisor agrees to comply with any directions given to it by GW CDN with respect to an investment in, or disposition of, Portfolio Securities; provided that:

4.3.3.1 GW CDN shall consult with the Investment Advisor with respect to any such proposed directions;

4.3.3.2 any such direction complies with Applicable Laws; and

4.3.3.3 any such direction does not conflict with an express provision of this Agreement, unless mutually agreed upon by the Investment Advisor and GW CDN.

4.3.4 Notwithstanding any other provisions of this Section 4.3, GW CDN acknowledges and agrees that to the extent Donna Parr, or other person approved by GW CDN in writing, is acting solely in her or his capacity as a director of a Portfolio Company, Donna Parr or such other person, will be subject to a director's fiduciary duties to act in the best interests of such Portfolio Company.

4.4 Other Activities

Nothing in this Agreement, subject to the confidentiality obligations set out in Article 9, shall prevent or restrict the Investment Advisor or any of its Affiliates from providing similar services to other Persons, including to Other Clients, or from engaging in any other activities, nor shall it require any such Person to account to the Investment Advisor or to GW CDN or to the Monitor for any profit or benefit arising from any such activity.

5. DUTIES RELATED TO GW CDN

5.1.1 GW CDN shall maintain or cause to be maintained at all times reasonably complete and accurate books of account and records relating to the Portfolio, which books of account and records shall be accessible for inspection by a designated representative of the Investment Advisor at any time, upon reasonable notice, during ordinary business hours.

5.1.2 GW CDN shall make available or cause to be made available on a timely basis all personnel familiar with the Portfolio, the Portfolio Companies and the Portfolio Securities as reasonably required from time to time in order to allow the Investment Advisor to provide the services and to perform its duties and obligations pursuant to this Agreement.

5.1.3 GW CDN shall make available to the Investment Advisor, on a timely basis, all notices sent by GW CDN to, or received by GW CDN from Portfolio Companies or with respect to the Portfolio Securities.

5.1.4 Except as set forth in Section 4.1.9, GW CDN shall be responsible for all corporate, accounting and auditing, administration, shareholder, and regulatory matters with respect to the Portfolio, the Portfolio Companies and the Portfolio Securities.

6. COMPENSATION AND DISPOSITION OF PROCEEDS

6.1 Monthly Fee

As compensation for its services under this Agreement, the Investment Advisor will be paid by GW CDN, a monthly fee of $10,417 (the "**Monthly Fee**") for the Contract Period. The Monthly Fee is payable in arrears on the last Business Day of each month of the Contract Period. During any Additional Term, the Investment Advisor will be paid the Monthly Fee payable in arrears on the last Business Day of each month of the Additional Term.

6.2 Transaction Fees

6.2.1 In addition to the Annual Fee, GW CDN will reimburse the Investment Advisor for all lawful, proper, reasonable and necessary out-of-pocket expenses (other than Excluded D&O Insurance Premiums), including travel expenses to meet with Portfolio Companies and D&O Insurance Premiums (collectively the "**Transaction Expenses**"), incurred by the Investment Advisor in the course of making investment and divestment and portfolio management decisions in respect of the Portfolio Securities up to a maximum aggregate amount of $25,000 per annum for travel expenses (pro rated to cover any partial Contract Year) plus up to a maximum of $10,000 per annum for D&O Insurance Premiums (pro rated to cover any partial Contract Year to the extent permitted by the insurer). The Transaction Expenses will be reimbursed by GW CDN within three (3) Business Days of submission of proper receipts; provided however that the Investment Advisor will seek reimbursement for any Transaction Expenses from the applicable Portfolio Company and the Investment Advisor shall not be reimbursed for any Transaction Expenses that have otherwise been paid by or on behalf of a Portfolio Company to the Investment Advisor. With respect to any Transaction Expenses which are payable by a Portfolio Company to the Investment Advisor but reimbursed by GW CDN to the Investment Advisor, GW CDN will pay such Transaction Expenses as agent on behalf of the applicable Portfolio Company and, the Investment Advisor will direct each such Portfolio Company to pay directly to GW CDN any such Transaction Expenses that have been reimbursed by GW CDN, as agent on behalf of the Portfolio Company.

6.2.2 In carrying out its obligations hereunder, the Investment Advisor may retain legal counsel to perform services related to the liquidation of the Portfolio Securities and Follow-on Financings provided that such legal counsel (i) shall extend the benefit of its advice to GW CDN; (ii) shall take instructions from the Investment Advisor; and (iii) must be approved in advance and in writing by GW CDN, acting reasonably, if such legal counsel has acted adverse to the Fund in any litigation matter. The reasonable costs of any such legal counsel (the "**Legal Expenses**") shall be paid directly by GW CDN to such legal counsel, upon submission of such proper invoices and other documentation reasonably satisfactory to GW CDN and the Monitor; provided however that the Investment Advisor will seek reimbursement on behalf of GW CDN for any Legal Expenses from the applicable Portfolio Company. The Investment Advisor will not accept payment of any Legal Expenses from or on behalf of a Portfolio Company.

6.3 Additional Fees

6.3.1 In addition to the other fees described in this Article 6 and subject to Section 6.3.7, the Investment Advisor shall, except in respect of any period occurring after the termination of this Agreement pursuant to Section 8.1(ii), Section 8.2, Section 8.3(i), Section 8.3(ii), Section 8.3(iii) or Section 8.4, be entitled to a fee (the "**Additional Fee**") equal to

6.3.1.1 in the case of any Net Proceeds received by GW CDN or the Monitor (on behalf of GW CDN) during the Contract Period, 7% of such Net Proceeds; and

6.3.1.2 in the case of any Receivables received by GW CDN or the Monitor (on behalf of GW CDN) and which are attributable to a completed transaction that occurred during the Contract Period, 7% of such Receivables.

6.3.2 Any Additional Fee shall be paid within three (3) Business Days of the later of (i) the date of receipt of the Net Proceeds or the receipt of the Receivable by GW CDN or the Monitor (on behalf of GW CDN), and (ii) the date of receipt by GW CDN of an excel spreadsheet from the Investment Advisor setting out in reasonable detail the calculation of the applicable Additional Fee (which spreadsheet may be delivered by the Investment Advisor to the Fund before or after the completion of the applicable transaction giving rise to Net Proceeds), unless the Parties are not in agreement as to the amount of Net Proceeds or the Receivable and either Party has delivered to the other Party a Dispute Notice pursuant to Section 10.1.1, in which case the Additional Fee shall be paid within three (3) Business Days following a decision in accordance with Section 10.

6.3.3 In addition to the other fees described in this Article 6 and subject to Section 6.3.7, in the event of a termination of this Agreement by the Investment Advisor pursuant to Section 8.2 or by GW CDN pursuant to Section 8.3(i), the Investment Advisor shall be entitled to (i) a fee equal to 7% of any Net Proceeds received by GW CDN or the Monitor (on behalf of GW CDN) in respect of dispositions of Portfolio Securities completed by GW CDN during the Tail Period, and (ii) a fee equal to 7% of any Receivables received by GW CDN or the Monitor (on behalf of GW CDN) and which are attributable to a completed transaction that occurred during the Tail Period.

6.3.4 Any fee payable pursuant to Section 6.3.4 shall be paid within three (3) Business Days of the last day of the Tail Period or receipt of the Receivables, as applicable, unless the Parties are not in agreement as to the amount of the applicable fee and either Party has delivered a Dispute Notice pursuant to Section 10.1.1, in which case such fee shall be paid within 10 Business Days following a decision in accordance with Section 10.

6.3.5 To the extent a fee that may be payable under this Section 6.3 is the subject of a Dispute Notice, the amount of such fee claimed by the Investment Advisor (to the maximum amount the applicable fee provided for hereunder) will be held in a separate account in trust with the Monitor until the applicable Dispute is resolved by the Court.

6.3.6 Fees, securities and other compensation paid or issued by, or on behalf of, any Portfolio Company to a member of the board of directors of such Portfolio Company who is a nominee of the Investment Advisor may not be retained by the

Investment Advisor or nominee board member and shall be for the benefit of, and paid and assigned to, GW CDN, except that any such compensation may be retained by a nominee board member who has been approved by GW CDN in writing for the purposes of this Section (with Bryan Boyd being hereby confirmed as being so approved, but only in his capacity as nominee board member of Aizan Technologies Inc.). The Investment Advisor shall include in each quarterly report delivered pursuant to Section 4.1.4 a summary of all such cash, options and other investments paid to or received by the Investment Advisor or any such nominee board member during the period covered by such report.

6.3.7 For purposes of calculating any fee payable by the Fund to the Investment Advisor under this Section 6.3 in respect of a disposition of Portfolio Securities or Class A shares of GW CDN or collection of IA Advanced Proceeds, as applicable, any Receivable in respect of such transaction shall be included in the calculation of such fee for the applicable period and, in each case, without duplication, but the portion, if any, of such fee attributable to such Receivable shall only be payable by GW CDN if and when such Receivable is actually received by GW CDN.

6.4 Taxes

All amounts payable to the Investment Advisor are exclusive of any applicable harmonized sales taxes payable by GW CDN, which will be payable by GW CDN, in addition to the fees payable hereunder, where applicable.

6.5 Expenses Borne by GW CDN

GW CDN shall pay all expenses relating to the performance of GW CDN's obligations pursuant to Article 5.

6.6 Proceeds of Disposition

The Investment Advisor will ensure that all cash proceeds from the disposition of any Portfolio Securities or GW CDN's entitlement to escrowed proceeds, including milestone payments, deferred purchase price consideration and earn-out payments, or the sale of the shares of GW CDN are directed to an account in the name of the Monitor in immediately available funds.

7. INDEMNITY

7.1 Liability of the Investment Advisor

Neither the Investment Advisor nor any of its Representatives shall be liable for any error of judgment or for any losses, claims, damages or liabilities ("**Losses**") suffered by the Portfolio in connection with the matters to which this Agreement relates, except to the extent that any such Losses result from (i) the fraud, bad faith, wilful misconduct or gross negligence of the Investment Advisor or any of its Representatives; (ii) the breach by the Investment Advisor or any of its Representatives of the standard of care set out in Section 4.3; or (iii) the material

breach by the Investment Advisor of any of the Investment Advisor's obligations and duties hereunder.

7.2 Indemnity of GW CDN

GW CDN shall indemnify and hold harmless the Investment Advisor and its Representatives from and against all Losses incurred by such Persons related to or arising out of (i) acts or omissions of the Investment Advisor directly related to the performance of its obligations hereunder other than those performed or omitted fraudulently, in bad faith or attributable to the gross negligence, dishonesty or wilful misconduct of the Investment Advisor or any of its Representatives; or (ii) acts or omissions of GW CDN directly related to the performance of its obligations hereunder which are omitted fraudulently, in bad faith or attributable to the gross negligence or wilful misconduct of GW CDN. Nothing herein shall be deemed to protect the Investment Advisor against any liability to GW CDN, its directors, officers, employees and shareholders where the Investment Advisor has materially breached its obligations as set forth in this Agreement.

7.3 Indemnity of the Investment Advisor

The Investment Advisor shall indemnify and hold harmless GW CDN and its directors, officers, agents, employees and advisors and their respective directors, officers and employees from and against any Losses incurred by such Persons related to or arising out of (i) acts or omissions of the Investment Advisor performed or omitted fraudulently, in bad faith or attributable to the gross negligence or wilful misconduct of the Investment Advisor; or (ii) a material breach by the Investment Advisor of an obligation or duty hereunder. The Investment Advisor and its Representatives shall not be liable to, and shall not be required to, indemnify GW CDN for any Losses as a result of any default, failure or defect in any of the securities and financial instruments comprising the Portfolio.

8. TERM AND TERMINATION

8.1 Term

This Agreement shall continue in full force and effect during the period (the "**Term**") commencing on the Effective Date and terminating on the earliest of: (i) December 31, 2019; (ii) the effective date of termination of this Agreement pursuant to Section 8.2, 8.3 or 8.4, as applicable; and (iii) the date on which GW CDN completes the disposition of all or substantially all of the remaining Portfolio Securities. Upon mutual agreement of GW CDN and the Investment Advisor, GW CDN may extend the date set out in clause (i) of this Section for an additional three months (the "**Additional Term**") by notice (an "**Extension Notice**") provided not later than ten (10) Business Days prior to the expiry of the Term, in which case the date set out in Section 8.1 (i) shall be deemed to be March 31, 2020 for all purposes of this Agreement.

8.2 Termination by Investment Advisor

The Investment Advisor may terminate this Agreement upon the material breach of any representation, warranty, covenant, obligation or other provision of this Agreement by GW CDN (and, without limitation, the failure to comply with Section 10 would constitute a material breach

of this Agreement) and such breach has not been waived or cured within 30 days following the date on which the Investment Advisor notifies GW CDN and the Monitor in writing of such breach and the effective date of such termination shall be the end of such 30 day period.

8.3 Termination by GW CDN

GW CDN may terminate this Agreement (i) at any time, upon 180 days' prior written notice and the effective date of such termination shall be the end of such 180 day period; (ii) upon the material breach of any representation, warranty, covenant, obligation or other provision of this Agreement by the Investment Advisor (and, without limitation, the failure to comply with Section 10 would constitute a material breach of this Agreement) and such breach has not been waived or cured within 30 days following the date on which GW CDN notifies the Investment Advisor in writing of such breach and the effective date of such termination shall be the end of such 30 day period; or (iii) in the event that Donna Parr ceases, for any reason, to provide on behalf of the Investment Advisor, any of the services to be provided by the Investment Advisor hereunder unless the Investment Advisor has delegated such obligations in accordance with the terms of Section 4.2, and the effective date of such termination shall be the date of receipt by the Investment Advisor of a notice of termination given by GW CDN pursuant to this Section 8.3(iii).

8.4 Termination by Either Party

Either Party may terminate this Agreement upon written notice to the other Party if this Agreement has not been approved by the Court on or before December 31, 2017.

8.5 Action upon Termination

8.5.1 From and after the effective date of termination of this Agreement, the Investment Advisor shall be entitled to the following payments:

(i) Annual Fees and Additional Fees, if applicable, which have been earned to the effective date of termination and remain unpaid as at such date; and

(ii) unpaid Transaction Expenses incurred on or prior to the effective date of termination.

8.5.2 The Investment Advisor and its Affiliates, as applicable, shall forthwith, upon termination of this Agreement deliver to GW CDN all property and documents of, or relating to, the Portfolio, including financial and accounting records which are in the possession or control of the Investment Advisor or any of its Affiliates, other than a copy retained for its own records, which copy shall remain subject to the provisions of Article 9.

8.5.3 In the event that a new investment advisor is retained by GW CDN in connection with the termination of this Agreement, the Investment Advisor will do all things and take all steps necessary or advisable to promptly and effectively transfer the management of the Portfolio and the Portfolio Securities as well as the books, records and accounts to the new portfolio investment advisor or as instructed by

GW CDN in writing. The Investment Advisor shall execute and deliver all documents and instruments necessary or advisable to effect and facilitate such transfer.

8.6 Survival

The provisions of Section 6.4, Article 7, Section 8.5, Article 9, Article 10 and Article 11 shall survive the termination of this Agreement and the Tail Period, if any. For greater certainty, with respect to Net Proceeds which are Receivable, all provisions of this Agreement related to the calculation and payment of fees owing to the Investment Advisor hereunder shall survive the termination of this Agreement as required to ensure that such fees, if any, are paid to the Investment Advisor after the Term or after the Tail Period, if any, in accordance with the terms hereof.

9. CONFIDENTIALITY

9.1.1 The Investment Advisor shall refrain, for any reason whatsoever, from using and disclosing any Confidential Information without the prior written consent of GW CDN.

9.1.2 Notwithstanding the foregoing and within the limits established by this Agreement, the Investment Advisor may disclose the Confidential Information to its Representatives involved in the performance of this Agreement for whom knowledge of the Confidential Information is necessary for the performance of the Investment Advisor's obligations under this Agreement, provided that the Investment Advisor advises such third party of the confidentiality obligations set forth in this Article 9. The Investment Advisor will be responsible for any breach of the provisions of this Article 10 by any Representative of the Investment Advisor.

9.1.3 The Investment Advisor undertakes to protect the Confidential Information of GW CDN by using the same precautions implemented for the protection of the Investment Advisor's own confidential information and exercising the degree of care, diligence and skill that a reasonably prudent, qualified and informed professional with a specialty and experience as an investment advisor would exercise in the same circumstances to protect the Confidential Information.

9.1.4 Upon termination of this Agreement, the Investment Advisor immediately will stop using the Confidential Information in its custody, possession or control and, at the option of GW CDN, shall promptly return or destroy all Confidential Information in its custody, possession or control, other than a copy retained for its own records which copy shall remain subject to the provisions of this Article 9. The Investment Advisor will promptly deliver to GW CDN a certificate executed by an authorized officer of the Investment Advisor certifying as to such return or destruction.

9.1.5 If the Investment Advisor is requested pursuant to, or required by, Applicable Law or legal process to disclose any Confidential Information, the Investment

Advisor may make such disclosure but must first provide GW CDN with prompt notice of such request or requirement, unless notice is prohibited by Applicable Law, in order to enable GW CDN to seek an appropriate protective order or other remedy or to waive compliance with the terms of this Agreement or both. The Investment Advisor will not oppose any action by GW CDN to seek such a protective order or other remedy. If, failing the obtaining of a protective order or other remedy by GW CDN, such disclosure is required, the Investment Advisor will use reasonable efforts to ensure that the disclosure will be afforded confidential treatment.

10. DISPUTES

10.1.1 If any written notice (**"Dispute Notice"**) is provided by either Party of a dispute, claim or demand arising out of this Agreement (a "**Dispute**"), the Parties shall attempt to settle the Dispute by discussion between the Investment Advisor, a Representative of GW CDN and the Monitor.

10.1.2 If the Dispute has not been resolved, for any reason, within 30 Business Days following receipt by the receiving Party of the applicable Dispute Notice, the Dispute will be resolved by the Court; provided that any Dispute with respect to the mathematical calculation of a fee payable hereunder (**"Disputed Amounts"**) that is not resolved within such 30 day period shall be submitted for resolution by the Monitor or, if the Monitor is unable to serve, the Monitor will appoint the office of an impartial nationally recognized firm of independent accountants other than GW CDN's or the Investment Advisor's accountants (the **"Independent Accountants"**) who, acting as experts and not arbitrators, will resolve the Disputed Amounts. Each of GW CDN and the Investment Advisor shall have full access to the books and records and work papers of the other Party to the extent that they relate to any such calculation.

10.1.3 The Monitor or Independent Accountants, as applicable, will make a determination as soon as practicable within 30 days (or such other time as the Parties will agree in writing) after the Disputed Amount has been submitted to the Monitor or Independent Accountants, as applicable, for resolution, and the resolution of the Disputed Amounts by the Monitor, or Independent Accountants, as applicable, will be conclusive and binding upon the Parties. The costs of the Monitor or Independent Accountants, as applicable, will be borne by the Party losing the majority of the Disputed Amount.

11. MONITOR'S CAPACITY

Each of GW CDN and the Investment Advisor acknowledges and agrees that the Monitor, acting in its capacity as the Monitor of GW CDN in the CCAA Proceedings and not in its personal or corporate capacity, will have no liability whatsoever in connection with this Agreement or the obligations of the Monitor provided herein in its capacity as Monitor, in its personal or corporate capacity or otherwise.

12. GENERAL

12.1 Notice

Any demand, notice or other communication to be given in connection with this Agreement shall be given in writing and shall be given by personal delivery, by registered mail or by electronic means of communication addressed to the recipient as follows;

12.1.1 To the Investment Advisor:

Crimson Capital Inc.
379 Sunnyside Ave.
Toronto, Ontario
M6R 2R9

Attention: Donna Parr
E-Mail: parrdonna@gmail.com

12.1.2 To GW CDN:

GrowthWorks Canadian Fund Ltd.
c/o McCarthy Tétrault LLP
66 Wellington Street West
Suite 5300
Toronto-Dominion Bank Tower
Toronto, Ontario M5K 1E6

Attention: C. Ian Ross, Chairman
Fax: (416) 699-9250
Email: ianross@bell.net

with a copy to:

McCarthy Tétrault LLP
Toronto Dominion Bank Tower
Suite 5300, Box 48
Toronto, Ontario M5K 1E6

Attention:	Jonathan Grant
Fax:	(416) 868-0673
E-Mail:	jgrant@mccarthy.ca

or to such other Person's attention or at such other address as the Party to whom such notice is to be given shall have last notified the other Party hereto in the manner provided in this Section 12.1. Any notice delivered to the Party to whom it is addressed as hereinbefore provided shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a Business Day, then the notice shall be deemed to have been given and received on the Business Day next following such day. Any notice mailed as aforesaid shall be deemed to have been given and received on the fifth Business Day next following the date of its mailing provided no postal strike is then in effect or comes into effect within two Business Days after such mailing. Any notice transmitted by telecopier or other form of electronic communication shall be deemed given and received on the day of its transmission if such day is a Business Day and the notice is transmitted during business hours and if not on the next following Business Day.

In the event of any disruption, strike or interruption in the postal service after mailing and before receipt or deemed receipt of a document, it will be deemed to have been received on the sixth Business Day following full resumption of the postal service.

12.2 Entire Agreement

This Agreement and the agreements contemplated herein constitute the entire agreement between the Parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties and there are no warranties, representations, conditions or other agreements between the Parties in connection with the subject matter hereof except as specifically set forth herein. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

12.3 Severability

If any of the provisions of this Agreement shall be held or made invalid, in whole or in part, the other provisions hereof shall remain in full force and effect. Invalid provisions shall, in accordance with the intent and purpose of this Agreement, be replaced by such valid provisions which in their economic effect come as close as legally possible to such invalid provisions.

12.4 Assignment

This Agreement may not be assigned by any Party without the prior written consent of the other Party.

12.5 Amendment

Any amendment to this Agreement shall be in writing and shall be executed by both Parties.

12.6 Time of the Essence

Time is of the essence of this Agreement.

12.7 Successors and Assigns

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

12.8 No Third Party Beneficiaries

Except as provided in Sections 7.2 and 7.3, this Agreement is solely for the benefit of :

(a) the Investment Advisor, and its successors and permitted assigns, with respect to the obligations of GW CDN under this Agreement, and

(b) GW CDN, and its successors and permitted assigns, with respect to the obligations of the Investment Advisor under this Agreement;

and this Agreement will not be deemed to confer upon or give to any other Person any claim or other right or remedy. The Investment Advisor appoints GW CDN as the trustee for the directors, officers and employees of GW CDN of the covenants of indemnification of the Investment Advisor of the specified in Section 7.3 and GW CDN accepts such appointment. GW CDN appoints the Investment Advisor as the trustee for the directors, officers and employees of the Investment Advisor of the covenants of indemnification of GW CDN specified in Section 7.2 and the Investment Advisor accepts such appointment.

12.9 Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

12.10 Attornment

For the purpose of all legal proceedings this Agreement will be deemed to have been performed in the Province of Ontario in the Court and the Court will have jurisdiction to entertain any action arising under this Agreement. The Parties hereby attorn to the jurisdiction of the Court.

12.11 Counterparts

This Agreement may be executed in one or more counterparts, all of which, irrespective of the time of execution, shall be considered as one and the same agreement.

12.12 Original Investment Advisor Agreement

Until the Effective Date, the Original Investment Advisor Agreement shall remain in full force and effect unless terminated in accordance with its terms prior to the Effective Date.

[Signature Page Follows.]

IN WITNESS WHEREOF the Parties have executed this Agreement.

GROWTHWORKS CANADIAN FUND LTD.

By: _____

Name:

Title:

CRIMSON CAPITAL INC.

By: _____

Name:

Title:

IN WITNESS WHEREOF the Parties have executed this Agreement.

GROWTHWORKS CANADIAN FUND LTD.

By: _____

Name:

Title:

CRIMSON CAPITAL INC.

By: _____

Name: Donna Parr

Title: President

Schedule A

Portfolio Companies

8191808 Canada Inc. (Formerly Kibboko Inc.) – 207,775 Common shares; $664,546.30 aggregate principal amount of convertible debenture

Acorn Income Corp.

Aegera Therapeutics Inc. \ Aegera Oncology Inc. - 309,407 common shares

Aizan Technologies Inc. – 3,601,440 Class A shares; 900,360 Class B shares

Ambit Biosciences – contingent value rights

Ascentify Learning Media Inc. – 400 Common shares; 3,269,200 Class A Preferred shares; 176,000 Class B Preferred shares; $195,000 aggregate principal amount of convertible debentures; $308,103 aggregate principal amount of promissory notes; $485,807 aggregate principal amount of secured debentures; $100,000 aggregate principal amount of demands notes; $100,000 aggregate principal amount of secured demand promissory notes

Blueprint Software Solutions – 363,36,5 Common shares; 1,890,276 Class A Convertible Preferred shares; 57,507 Institutional warrants expiring July 18, 2015; 7,588,934 Bridge warrants (effectively 5,059,289 Common shares at $0.015 per Common share) expiring July 18, 2015

C-Therm Technologies Ltd. (formerly Mathis Instruments Ltd.) – 75,000 Class A Shares; 90,909 Class B Shares; 10,260 Class C Warrants; $250,000 aggregate principal amount of debenture; 11,362.50 Common Shares; $500,000 aggregate principal amount of Secured Debenture

CanPro Ingredients Ltd. - 1,225,000 Class A common shares; $598,500 aggregate principal amount of subordinated debenture; 665,000 Series C Preferred shares; 2,916,675 Series C Preferred shares; $494,200 aggregate principal amount of convertible debenture; $116,667 aggregate principal amount of secured note

Chitogenics Pharmaceuticals Ltd. –13,000 Convertible Class A preferred shares

Ember Ec3 Inc. – 250,000 Class A convertible preferred shares; 1,500,000 Class B convertible preferred shares

Empex –$4,494,000 aggregate principal amount of 12% Debenture

Fidus International Inc. – $1,136,000 aggregate principal amount of 10% Debenture; 16,071,000 common shares; 1000 options; 9,801,000 preferred shares

GWC III Holdings ULC - 1 Class A voting share without par value

GWC IV Holdings ULC - 1 Class A voting share without par value

GWC GP Inc. - 1 common share

inPowered, Inc. (formerly NetShelter Inc.) – 44,550 Series A Preferred Shares

IS2 Medical Systems Inc. (CAVI) – 833,000 Class A preferred shares; 1,708,000 Class B preferred shares; 1,486,000 common shares

iStopOver (formerly PlanetEye Company ULC) – 2,482,000 common shares

iW Technologies Inc. –$83,000 aggregate principal amount of promissory notes (10%)

Lexicon Value Management Inc. – 1,000 Common Shares; $438,000 aggregate principal amount of 0% Debenture; $1,362,000 aggregate principal amount of 15% Debenture; 1,000 Warrants

LibreStream Technologies Inc. –545,000 preferred shares; 2,395 common shares; 1,000 options

Man Agra Capital Inc.

MedInnova Partners Inc. – 27,100,000 Class A Preference Shares, 9,185,143 Class A Preference Shares, 1,272,857 Class A Preference Shares, 200,000 Common Shares

Molecular Templates Inc.

Monteris Medical Inc. – $100,000 aggregate principal amount of Convertible Promissory Note; $200,000 aggregate principal amount of Convertible Promissory Note; $150,000 aggregate principal amount of Convertible Promissory Note; $142,858 aggregate principal amount of Promissory Note; 178,571 Class A Preferred Shares; 89,286 Class A Preferred Shares; 238,190 Exchangeable Common Shares; 201,580 Class A Exchangeable Preference Shares; 16,667 Class B Exchangeable Preferred Shares; 16,667 Class B Exchangeable Preferred Shares; 456,437 Special Voting Stock Shares; 33,333 Class B Exchangeable Preference Shares; 33,333 Class B Exchangeable Preference Shares; 238,190 Common Shares; 87,619 Class B Preferred Shares; 96,723 Common Shares; 97,619 Class B Preferred Shares

Morega Systems Inc. – 1,411,764 Class B Series 1 Convertible Preferred Shares; 1,411,764 Class B Series 1 Convertible Preferred Shares; 1,411,764 Class B Series 1 Convertible Preferred Shares; 1,411,764 Pref C Shares; 3,599,999 Class A Convertible Preferred Shares; Warrants for 4,799,999 Class A Convertible Preferred Shares; 3,599,999 Class A Convertible Preferred Shares; 4,799,999 Class A Convertible Preferred Shares

Natrix Separations Inc. – 477,741 Class D Preferred Shares; 67,338 Class C Preferred Shares; $1,030,993.24 aggregate principal amount of Convertible Secured Debenture

Niagara Growth Fund Inc. – 2,600,000 Class A Voting Shares

NxtPhase T&D Corporation (formerly Carmanah Engineering Ltd.) - $791,000 aggregate principal amount of Senior Secured Convertible Notes; $338,817.50 aggregate principal amount of Notes; 3,389 Class D Preferred Stock; Warrants for New Preferred Stock; $338,817.50 aggregate principal amount of Notes; 3,389 Class D Preferred Stock; Warrants for New Preferred Stock

OTYC Holdings Inc. – 232,500 common shares; 700,000 Class A shares; 4,986,300 Class B shares; 2,252,309 Class C shares; 8,221,955 Class D shares

Orthopaedic Synergy Inc. (formerly Praxim SA) - 3,987,772 Series B Preferred Stock

Panorama Software (formerly CompanyDNA Inc.) – 26,863 Series B Preferred Redeemable Shares; 334,444 Common Shares; Warrants for 16,117 Common Shares; 230,309 Common Shares; 18,722 Series B Share; Warrants for 11,233 Common Shares

Targeted Growth Inc. – $474,564 aggregate amount of 2013 Notes New Investment; 539,957 Series D2 Preferred Shares; 533,333 Series D Pfd; 1,884,836 Series C Preferred Shares

Twinstrand Therapeutics Inc.

ViOptix Canada Inc. – $1,500,000 aggregate amount of Oct 2004 Convertible Debentures convertible into 311,372 Jr. Pref shares; 600,089 shares Conversion to Jr Prefs (cost 2,500,000 USD); 17,693,002 Class D Shares, FMV 5,976,000 USD (as at June 5, 2013); 1,056,834 Warrants; Sep 2009 Convertible Debentures, FMV 756,217 USD; Jan 2010 Convertible Debentures, FMV = 749,672 USD; Jun 2010 Convertible Debentures, FMV = 1,330,300 USD

Tab D

This is Exhibit "**D**" referred to in the
Affidavit of **C. Ian Ross**
sworn before me December 11, 2024

DocuSigned by:
Meena Alnajar
A508ACD91E1E426...

A Commissioner for taking Affidavits (or as may be)
Meena Alnajar LSO #: 89626N

COUNSEL SLIP

COURT FILE NO.: CV-13-00010279-00CL DATE: 19 Jan 2023

NO. ON LIST 1

TITLE OF PROCEEDING: GROWTHWORKS CANADIAN FUND LTD v. GROWTHWORKS WV MANAGMENT LTD.et al

COUNSEL INFORMATION-

For Moving Party

Name of Person Appearing	Name of Party	Phone Number	Email Address
Geoff Hall	GrowthWorks Canadian Fund Ltd.		ghall@mccarthy.ca
Jonathan Grant	GrowthWorks Canadian Fund Ltd.		jgrant@mccarthy.ca
Trevor Courtis	GrowthWorks Canadian Fund Ltd.		tcourtis@mccarthy.ca

For Responding Party

Name of Person Appearing	Name of Party	Phone Number	Email Address
Melvyn Solmon	GrowthWorks WV Management Ltd.		msolmon@srtslegal.com
Cameron Wetmore	GrowthWorks WV Management Ltd.		cwetmore@srtslegal.com

Other

Name of Person Appearing	Name of Party	Phone Number	Email Address
Caitlin Fell	FTI Consulting Canada Inc.		cfell@reconllp.com

JUDICIAL NOTES

The applicant is a labour-sponsored venture capital fund which had a portfolio of investments consisting primarily of minority equity interests in small and midsize private Canadian companies. This has been a long-running CCAA process, largely due to the size and nature of the Fund's investment portfolio, which was in many cases quite illiquid.

In this motion, the applicant seeks the extension of the stay to enable it to complete a number of "penultimate" tasks necessary to bring these proceedings to a conclusion. It also seeks other orders, including granting the liquidation of the Fund's remaining portfolio and making

distributions to the Fund's Class A shareholders, the termination of the CCAA proceedings, the discharge of the Monitor and dissolution of the Fund, and releases in favour of the Monitor and the representatives of the Monitor and of the applicant.

There is no opposition to any of the relief sought other than to the relief which seeks a declaration that the holder of the Class C shares (which is the former Fund manager) is not entitled to receive any further dividends or payments in respect of those shares. The former manager was terminated about a decade ago. The former manager takes the position that it has subsisting entitlements to incentive payments from the pre-termination period which are being triggered by the dissolution of the Fund.

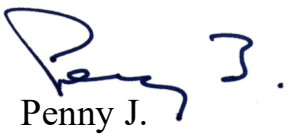
At the conclusion of oral argument, I indicated that all of the relief sought, other than the extinguishment of the rights of the Class C shares, would be granted and that my order in respect of those unopposed matters would issue. I took under reserve my decision on the dispute between the applicant and the former manager concerning any ongoing rights to payment in respect of the Class C shares. That decision will be issued in due course and will be the subject of a separate order at that time.

I am satisfied that the stay extension is warranted. Progress is being made. The end is in sight. The additional time being requested is not unreasonable, given evidence of the reasonable prospect of further material recoveries for relatively little addition cost. I am also satisfied that the dissolution order and orders terminating the CCAA proceedings are warranted, given the limited remaining tasks. The releases are tailored to the circumstances and are reasonable.

The fees requested are reasonable in the circumstances.

There is certain confidential information contained in the filing. It is necessary to seal this information to preserve the ability of the applicant and the Monitor to maximize value of the remaining assets. The sealing order sought meets the test in *Sherman Estate v. Donovan*.

Order to issue in the form signed by me this day.



Penny J.

Tab E

This is Exhibit "**E**" referred to in the
Affidavit of **C. Ian Ross**
sworn before me December 11, 2024

DocuSigned by:
Meena Alnajar
A508ACD91F7F426...

A Commissioner for taking Affidavits (or as may be)
Meena Alnajar LSO #: 89626N

GrowthWorks Canadian Fund Ltd. Provides Further Update on CCAA Proceedings and Proposed Winding-Up and Dissolution of the Fund

Toronto, Ontario (December 11, 2024) – GrowthWorks Canadian Fund Ltd. (the "Fund") today provided a further update on its proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA") and the proposed winding-up and dissolution of the Fund (the "Dissolution"), including certain proposed amendments to the Distribution, Termination and Discharge Order (the "Distribution Order") previously obtained by the Fund from the Ontario Superior Court of Justice (the "Court") under the CCAA.

At a hearing scheduled for December 18, 2024, the Fund will request the Court to amend the Distribution Order to, among other things, extend the Stay Period (as defined below).

The Fund is continuing with its efforts to liquidate the remainder of its investment portfolio. The Fund currently expects to cease those efforts and make a final cash distribution to eligible Class A shareholders of the Fund and the holder of the Fund's Class B shares, respectively, in connection with the Dissolution by March 31, 2025.

Background; Dissolution Date

In October 2013, the Fund sought protection from its creditors pursuant to proceedings (the "CCAA Proceedings") commenced under the CCAA and obtained an order of the Court granting a stay of proceedings against the Fund for a specified period of time (which is known as the "Stay Period"). The current Stay Period will expire on December 31, 2024, unless further extended by the Court. FTI Consulting Canada Inc. (the "Monitor") has been appointed by the Court as monitor for the CCAA Proceedings.

Since the commencement of the CCAA Proceedings, the Fund, in consultation with the Monitor and with the assistance of the Fund's investment advisor, Crimson Capital Inc. ("Crimson Capital"), has been primarily engaged in the orderly disposition of the Fund's remaining venture assets and the settlement of the Fund's liabilities and obligations, including significant amounts owing to Roseway Capital S.a.r.l., legal proceedings commenced by the former manager of the Fund and other litigation involving the Fund.

Distribution Order

On January 19, 2023, the Fund obtained the Distribution Order from the Court. Among other things, the Distribution Order:

- extends the Stay Period to December 31, 2024.

- authorizes the Fund to continue to take such steps as it, in consultation with its investment advisor and the Monitor, determines is appropriate to effect an orderly liquidation of its investment portfolio.

- authorizes the Fund to cease those efforts and donate any security that it continues to hold to one or more charities or otherwise deal with it in the manner determined by the Fund, in consultation with the Monitor, if the Fund determines that it would be appropriate to do so, after considering the proceeds likely to be realized, the estimated cost of such efforts and such other factors as the Fund determines relevant in the circumstances.

- authorizes the Fund to make one or more distributions to the holders (the "Class A Shareholders") of its Class A shares (the "Class A Shares") and the holder of its Class B shares in certain circumstances.

- provides that, upon the Fund concluding the liquidation of its investment portfolio, paying all creditor claims, making distributions to shareholders and otherwise completing all matters to be attended to in connection with the CCAA Proceedings to the satisfaction of the Monitor, the Monitor will file with the Court the Monitor's CCAA Completion Certificate, which will designate the "CCAA Termination Time"; and that, as of the CCAA Termination Time:

    - the CCAA Proceedings will be terminated;

    - the Fund will be dissolved without any further act or formality;

    - the Monitor will be discharged and released from its duties, obligations and responsibilities; and

    - the current and former directors, officers and other Representatives (as defined in the Distribution Order) of the Fund, the Monitor and the Monitor's Representatives (as defined in the Distribution Order), will be released from all claims arising in connection with Fund or the CCAA Proceedings (except claims that cannot be compromised pursuant to the provisions of the CCAA).

A copy of the Distribution Order is available on the website of the Monitor at: http://cfcanada.fticonsulting.com/GCFL/.

Proposed Amendments to the Distribution Order

The Fund has filed a motion with the Court for certain amendments to the Distribution Order. The Court will consider the Fund's application at a hearing to be held virtually at 12:00 p.m. (Eastern Time) on December 18, 2024. Persons wishing to attend the Court hearing should contact the Monitor by telephone at 416-649-8087 / 1-855-431-3185 or by e-mail at growthworkscanadianfundltd@fticonsulting.com.

If granted, the amendments to the Distribution Order would provide the following relief, among other things:

- the Stay Period would be extended until the CCAA Termination Time, during which time the Fund would be authorized to continue to take such steps as it, in consultation with its investment advisor and the Monitor as appropriate, determines is appropriate to effect an orderly liquidation of its investment portfolio after December 31, 2024.

- the term of the Second Amended and Restated Investment Advisor Agreement between the Fund and Crimson Capital would be extended until the CCAA Termination Time.

The Fund would continue its efforts to liquidate its investment portfolio until such time as the Fund, in consultation with the Monitor, determines that it would be appropriate to cease those efforts, after considering the proceeds likely to be realized, the estimated cost of such efforts and such other factors as the Fund determines relevant in the circumstances. Upon making that determination, the Fund would be authorized to donate any security that it continues to hold to

one or more charities or otherwise deal with it in the manner determined by the Fund. At this time, it is the Fund's intention to cease its portfolio liquidation efforts and make a final cash distribution to eligible shareholders of the Fund in connection with the Dissolution by March 31, 2025. Since the Fund's remaining non-cash assets consist of equity and debt venture investments in private enterprises or restricted securities, this means that the Fund would surrender any such remaining investments for no consideration notwithstanding the potential long-term value of the investments, which may be material, and proceed with the Distribution in connection with the Dissolution, as described below.

Copies of the court material filed by the Fund and the Monitor, together with details relating to the CCAA Proceeding and general information relating to the status of the remaining investments, are available on the Monitor's website at http://cfcanada.fticonsulting.com/gcfl/.

Dissolution Date; Distribution to Class A Shareholders

The Distribution Order authorizes the Fund to make distributions to eligible Class A Shareholders out of the available cash and cash equivalents of the Fund, net of any amount due and owing to the Fund's creditors, the estimated costs to make the distribution and certain other amounts. As noted above, the Fund currently expects to make a final cash distribution (the "Distribution") to eligible Class A Shareholders and the holder of the Fund's Class B shares, respectively, in connection with the Dissolution. Eligible Class A Shareholders would be expected to share rateably in the distribution proceeds according to the net asset value of the applicable series of Class A Share, share for share, in the distribution proceeds, less any applicable withholding taxes and subject to the terms of the Distribution Order.

The amount and timing of any such Distribution has not yet been determined; however, the Fund presently expects this to occur by March 31, 2025. Delivery of cheques representing any such Distribution may be adversely affected by the current postal strike in Canada if it is not resolved prior to any Distribution. The Fund intends to provide a further update as to the details of the Dissolution and any Distribution in the coming weeks, including the approximate amount of cash that will be available for the Distribution.

Updates to Shareholder Registration Details Prior to the Dissolution

Since the commencement of the CCAA Proceedings, it is possible that changes in the registration details of a Class A Shareholder may have occurred without those changes being reflected on the Fund's register of Class A Shareholders, including as a result of Class A Shares having devolved as a consequence of the death of a Class A Shareholder.

In order to ensure that any notice or distribution by the Fund to Class A Shareholders in connection with the Dissolution is properly given or made, Class A Shareholders are reminded to submit any changes in registration details since October 1, 2013 to the Fund's transfer agent, The Investment Administration Solution Inc. ("IAS"), by utilizing the following website administered by IAS on behalf the Fund:

https://www.autonomousinvest.com/gwcf

Additional Questions

Additional questions regarding the proposed Dissolution may be directed to the Fund via the website set out above and to the Monitor via the following:

Phone: 416-649-8087
Email: growthworkscanadianfundltd@fticonsulting.com

Forward-Looking Information

This press release contains forward looking statements, including statements with respect to the Fund's proceedings under the CCAA. These forward-looking statements reflect the Fund's current views and are based on certain assumptions, including, but not limited to, assumptions as to future operating conditions and courses of action, general economic and market conditions and other factors the Fund believes are appropriate. Such forward looking statements are subject to risks and uncertainties that may cause actual results to differ materially from those contained in these statements, including, but not limited to, the risk that dispositions of the Fund's remaining portfolio investments, together with the Fund's cash resources, will not yield proceeds sufficient to satisfy in full claims of the Fund's creditors or any distribution to the Fund's shareholders; the risk that claims by third parties against the Fund may adversely affect the Fund's ability to wind up its affairs and make distributions to its stakeholders and may involve substantial expense and, in either case, could require the Fund to pay substantial amounts if those claims are successful, thereby reducing or depleting entirely the Fund's liquidity and amounts available for distribution to its creditors or shareholders or both; and those risks and uncertainties disclosed in the Fund's regulatory filings posted on SEDAR+ at www.sedarplus.ca. These risks and uncertainties may cause actual results, events or developments to be materially different from those expressed or implied by such forward-looking statements. Unless required by law, the Fund does not assume any obligation to update any forward-looking statements, whether as a result of new information, future events or results or other factors.

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-13-10279-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

AFFIDAVIT

McCarthy Tétrault LLP
Suite 5300, TD Bank Tower
66 Wellington Street West
Toronto, ON M5K 1E6

Geoff R. Hall LSO#: 34710O
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Lawyers for the Applicant,
GrowthWorks Canadian Fund Ltd.

MTDOCS 52884179

Tab 3

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE	)	WEDNESDAY, THE 18TH
	)	
JUSTICE CAVANAGH	)	DAY OF DECEMBER, 2024

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.

AMENDED AND RESTATED DISCHARGE AND DISSOLUTION ORDER

(Amending Distribution, Termination and Discharge Order dated January 19, 2023)

THIS MOTION, made by GrowthWorks Canadian Fund Ltd. (the "**Applicant**" or the "**Fund**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Amended and Restated Discharge and Dissolution Order:

(i) Abridging service of the motion materials, validating service and the notice provided to all parties, including of the Fund's intention to surrender its remaining investments, and dispensing with further service and notice thereof;

(ii) extending the stay period defined in paragraph 14 of the Initial Order (defined below) up to the CCAA Termination Time (the "**Stay Period**");

(iii) granting certain relief related to the liquidation of the Applicant's portfolio;

(iv) authorizing the making of distributions to Class "A" shareholders and Class "B" shareholders of the Applicant;

(v) approving the following reports (collectively, the "**Reports**") Twenty-First Report of

FTI Consulting Canada Inc. ("**FTI**"), in its capacity as monitor of the Applicant (the "**Monitor**") dated December 14, 2017 (the "**Twenty-First Report**"), the Twenty-Second Report of the Monitor dated June 25, 2018 ("**Twenty-Second Report**"), the Twenty-Third Report of the Monitor dated February 14, 2019 ("**Twenty-Third Report**"), the Twenty-Fourth Report of the Monitor dated March 21, 2019 ("**Twenty-Fourth Report**"), the Twenty-Fifth Report of the Monitor dated December 16, 2019 (the "**Twenty-Fifth Report**"), the Twenty-Sixth Report of the Monitor dated September 18, 2020 ("**Twenty-Sixth Report**"), the Twenty Seventh-Report of the Monitor dated June 25, 2021 ("**Twenty Seventh-Report**"), the Twenty-Eighth Report of the Monitor dated November 27, 2021 (the "**Twenty-Eighth Report**"), the Twenty-Ninth Report of the Monitor dated March 22, 2022 (the "**Twenty-Ninth Report**") the Thirtieth Report of the Monitor dated December 9, 2022 (the "**Thirtieth Report**"), and the Thirty-First Report of the Monitor (the "**Thirty-First Report**"), as well as the activities outlined in each such report;

(vi) approving the fees and disbursements of the Monitor and its legal counsel;

(vii) providing for the release of the Monitor, the Applicant and their Representatives (as defined below), including confirming that the releases apply to the Applicant's decisions to surrender the remaining assets of the Applicant;

(viii) as of the CCAA Termination Time, dissolving the Applicant, discharging the Monitor, terminating the CCAA Proceedings and discharging the Administration Charge and the Directors' Charge (as each is defined in the Initial Order);

(ix) approving certain amendments to paragraph 21 hereof to approve and authorize the dissolution of the Applicant pursuant to the CCAA and section 217 of the *Canada Business Corporations Act* (the "**CBCA**");

(x) sealing the confidential exhibits;

(xi) approving and authorizing the Applicant to enter into the IAS Agreement and an extension of the term of the Second Amended and Restated IAA (each as defined

below) to and including the CCAA Termination Time,

(xii) and, such other relief as counsel may request and this Court may deem just,

was heard this day by way of judicial video conference via Zoom in Toronto, Ontario.

ON READING the Motion Record of the Fund, including the Notice of Motion (the "**Motion Record**") and the affidavit of C. Ian Ross sworn on December 11, 2024 (the "**Ross Affidavit**") and the Thirty-First Report, and on hearing the submissions of counsel for the Applicant and the Monitor, and such other counsel that were present as listed on the Participant Slip, no one else appearing although properly served as appears from the affidavit of service, filed:

SERVICE & NOTICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record and Thirty-First Report is hereby abridged and validated such that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that the notice provided as described in the Ross Affidavit, including of the Fund's intention to surrender its remaining investments is hereby validated and approved.

INTERPRETATION

3. **THIS COURT ORDERS** that, in addition to terms defined elsewhere herein, (i) capitalized terms used, but not defined, herein shall have the meanings given to them in the Initial Order, and (ii) the following terms shall have the following meanings:

a. "**Applicable Law**" means:

i. any applicable domestic or foreign law including any statute, subordinate legislation or treaty, as well as the common law; and

ii. any applicable and enforceable rule, regulation, requirement, order,

judgment, injunction, award or decree of a Governmental Authority.

b. "**Available Cash**" means the available cash and cash equivalents of the Applicant;

c. "**Business Day**" means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;

d. "**CCAA Proceedings**" means the within proceedings in respect of the Applicant under the CCAA;

e. "**CCAA Termination Date**" means the date on which that the Monitor delivers the Monitor's CCAA Completion Certificate (defined below);

f. "**CCAA Termination Time**" means such time on the CCAA Termination Date as the Monitor may determine and designate in the Monitor's CCAA Completion Certificate (defined below);

g. "**Class A Distribution Pool**" means, in respect of any Distribution, the Available Cash on the Distribution Record Date for such Distribution less (i) the aggregate amount of any Distributions to be made pursuant to paragraph 11 of this Order and any further order of this Court made pursuant to paragraph 12 of this Order, (ii) any amounts due and owing to creditors of the Applicant on such Distribution Record Date, (iii) the estimated costs of the Applicant in making such Distribution, and (iv) a reserve for the estimated costs of the Applicant, the Monitor and their respective Representatives from such Distribution Record Date to the CCAA Termination Time, in each case determined by the Applicant in consultation with the Monitor;

h. "**Class A Eligible Shareholder**" means, in respect of any Distribution, a holder of one or more Class "A" shares of the Applicant as of the close of business on the Distribution Record Date for such Distribution that has not been barred from receiving distributions pursuant to paragraphs 13 or 15 hereof;

i. "**Court**" means the Ontario Superior Court of Justice (Commercial List);

j. "**Director**" means any Person who, as at the CCAA Termination Time, is a former or current director or officer of the Applicant or any other Person of a similar position or who by Applicable Law is deemed to be or is treated similarly to a director or officer of the Applicant or who currently manages or supervises the management of the business and affairs of the Applicant or did so in the past;

k. "**Distribution**" means a distribution to be made pursuant to this Order;

l. "**Distribution Date**" means the date on which a Distribution is made pursuant to this Order as designated in a Monitor's Distribution Certificate (defined below);

m. "**Distribution Record Date**" means, in respect of any Distribution, the date that is seven Business Days prior to the date upon which such Distribution is made;

n. "**Filing Date**" means October 1, 2013;

o. "**Governmental Authority**" means any domestic or foreign legislative, executive, judicial or administrative body or person having jurisdiction in the relevant circumstances;

p. "**including**" means including, without limitation;

q. "**IAS Agreement**" means the wind-up services agreement approved herein.

r. "**Initial Order**" means the initial order of the Court made in the CCAA Proceedings on October 1, 2013, as amended and restated on October 29, 2013;

s. "**Monitor's Website**" means the website established by the Monitor in respect of the CCAA Proceedings;

t. "**Person**" means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade union, government authority or any agency, regulatory body or officer thereof or any other

entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity;

u. "**Released Claims**" means any and all demands, claims (including claims for contribution or indemnity), actions, causes of action, counterclaims, suits, debts, sums of money, liabilities, accounts, covenants, damages, judgments, orders (including orders for injunctive relief or specific performance and compliance orders), expenses, executions, encumbrances and recoveries on account of any liability, obligation, demand or cause of action of whatever nature (including for, in respect of or arising out of environmental matters, pensions or post-employment benefits or alleged oppression, misrepresentation, wrongful conduct, fraud or breach of fiduciary duty by the Applicant or any of its Representatives) that any Person has or may be entitled to assert, whether known or unknown, matured or unmatured, contingent or actual, direct, indirect or derivative, at common law, in equity or under statute, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing, matter or occurrence existing or taking place at or prior to the CCAA Termination Time, that in any way relate to or arise out of or in connection with (i) the assets, obligations, business or affairs of the Applicant, including the investment portfolio of the Applicant; or (ii) the CCAA Proceedings or any matter, transaction or occurrence involving the Applicant, the Monitor or any of their respective Representatives occurring in or in connection with the CCAA Proceedings, including but not limited to decisions to surrender any remaining assets of the Funds irrespective of any future potential realization opportunities and including if a realization opportunity subsequently arises, but "Released Claims" does not include a claim that cannot be compromised due to the provisions of subsection 5.1(2) of the CCAA;

v. "**Released Parties"** means each of the Directors, the Monitor and its Representatives and the Applicant's Representatives;

w. "**Representatives**" means, in relation to a Person, such Person's current and former directors, officers, partners, employees, consultants, legal counsel, accountants, auditors, actuaries, advisors and agents, the current and former directors, officers, partners and employees of any such consultant, legal counsel, accountant, auditor, actuary, advisor or agent, and, in each case, including their respective heirs, executors, administrators and other legal representatives, successors and assigns; and

x. "**Service List**" means the service list in the CCAA Proceedings.

STAY EXTENSION

4. **THIS COURT ORDERS** that the Stay Period is hereby extended until and including the CCAA Termination Time (the "**Stay Extension Period**").

COMPLETION OF ORDERLY LIQUIDATION

5. **THIS COURT ORDERS** that, during the Stay Extension Period, the Applicant may continue to take such steps as the Applicant, in consultation with Crimson Capital (for so long as Crimson Capital continues to serve as an investment advisor to the Fund) and the Monitor, determines is appropriate to effect an orderly liquidation of its investment portfolio.

6. **THIS COURT ORDERS** that if the Applicant, in consultation with Crimson Capital (for so long as Crimson Capital continues to serve as an investment advisor to the Fund) and the Monitor, determines that it is no longer appropriate to continue its efforts to liquidate its investment portfolio considering the proceeds likely to be realized, the estimated cost of such efforts and such other factors as the Applicant, in consultation with the Monitor, determines relevant in the circumstances, the Applicant may cease taking any further steps to liquidate its investment portfolio.

7. **THIS COURT ORDERS** that, upon the Applicant ceasing to take any further steps to liquidate its investment portfolio, the Applicant, in consultation with the Monitor, may donate any security held by the Applicant to one or more charities or otherwise deal with any security held by the Applicant in the manner determined by the Applicant, in consultation with the Monitor, or in accordance with further order of this Court.

AUTHORIZATION OF DISTRIBUTIONS

8. **THIS COURT ORDERS** that the Applicant or its transfer agent or other third party appointed by the Applicant, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Applicant, may make one or more Distributions from the Class A Distribution Pool to Class A Eligible Shareholders in accordance with the respective terms of the various outstanding series of Class "A" shares of the Applicant, subject to the terms of this Order.

9. **THIS COURT ORDERS** that, on each Distribution Date, the Monitor shall serve on the Service List and post on the Monitor's Website, a certificate in the form attached as **Schedule "A"** hereto (a "**Monitor's Distribution Certificate**") certifying that a Distribution has been made and specifying the aggregate amount of the Distribution to Class A Eligible Shareholders and the amount of the Distribution made on account of each Class "A" share held by a Class A Eligible Shareholder pursuant to this Order.

10. **THIS COURT ORDERS** that any Distribution to a Class A Eligible Shareholder shall be made by (i) cheque sent by prepaid ordinary mail to the address of such Class A Eligible Shareholder on file with the Applicant or its transfer agent on the Distribution Record Date for such Distribution, or (ii) electronic transfer of immediately available funds to an account designated in writing by such Class A Eligible Shareholder.

11. **THIS COURT ORDERS** that, on the initial Distribution Date, the Applicant or its transfer agent or other third party appointed by the Applicant, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Applicant, may make a Distribution to the holder of the Class "B" shares of the Applicant as of such Distribution Record Date in accordance with the terms of the Class "B" shares of the Applicant, subject to the terms of this Order, by (i) cheque sent by prepaid ordinary mail to the address of the applicable shareholder on file with the Applicant or its transfer agent on the Distribution Record Date for such Distribution, or (ii) electronic transfer of immediately available funds to an account designated in writing by the applicable shareholder.

12. **THIS COURT ORDERS AND DECLARES** that the entitlement of the holder of the Class "C" shares of the Applicant to receive any further dividends or payments on account of those shares,

and the priority of any such dividends or payments, shall be subject to further order of this Court.

13. **THIS COURT ORDERS** that the Applicant and any other Person facilitating payments pursuant to this Order: (i) shall, notwithstanding anything to the contrary, not be required to make any payment hereunder in an amount less than $5. If the amount to which a Person would be entitled in a Distribution hereunder is less than $5 then such payment shall be forfeited and will be released to the Applicant and form part of Available Cash; and (ii) will be entitled to deduct and withhold from any such payment to any Person such amounts as may be required to be deducted or withheld under any Applicable Law and to remit such amounts to the appropriate Governmental Authority or other Person entitled thereto. To the extent that amounts are so withheld or deducted and remitted to the appropriate Governmental Authority or other Person, such withheld or deducted amounts will be treated for all purposes hereof as having been paid to such Person as the remainder of the payment in respect of which such withholding or deduction was made. Any Class A Eligible Shareholder whose address on file with the Applicant or its transfer agent on the applicable Distribution Record Date is not a Canadian address will be treated as a non-resident of Canada for purposes of any applicable non-resident withholding tax on all payments hereunder, subject to receipt by the Applicant of information satisfactory to it (in their sole discretion) that such Class A Eligible Shareholder is not a non-resident. No gross-up or additional amount will be paid on any payment hereunder to the extent the Applicant or any other Person deducts or withholds amounts pursuant to this paragraph. Notwithstanding any withholding or deduction, each Person receiving a payment will have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any Governmental Authority (including income and other tax obligations on account of such distribution).

14. **THIS COURT ORDERS** that, if any Distribution made to a Class A Eligible Shareholder under this Order is returned as undeliverable or is unable to be electronically transferred (an "**Undeliverable Distribution**"), then neither the Applicant nor the Monitor will be required to make further efforts to deliver such Distribution to such Class A Eligible Shareholder unless and until the Applicant and Monitor are notified in writing by such Class A Eligible Shareholder of such Class A Eligible Shareholder's current address or provides written transfer instructions acceptable to the Applicant and the Monitor in their sole discretion, at which time all such Distributions will be made

to such Class A Eligible Shareholder. The obligations of the Applicant and Monitor to a Class A Eligible Shareholder with respect to an Undeliverable Distribution will expire on the first Business Day that is six months following the applicable Distribution Date, after which date any entitlement with respect to such Undeliverable Distribution and any further Distributions pursuant to this Order will be forever released, discharged and barred, without any compensation therefor. No interest will be payable in respect of an Undeliverable Distribution. On the first Business Day that is six months following the applicable Distribution Date for an Undeliverable Distribution, the amount of any Undeliverable Distribution will be released to the Applicant and form part of Available Cash.

15. **THIS COURT ORDERS** that, if any cheque or electronic transfer on account of a Distribution to a Class A Eligible Shareholder under this Order is not cashed or accepted, as applicable, within six months after the date of the applicable Distribution Date (an "**Uncashed Distribution**"):

a. such cheque may be cancelled by the Applicant, the Monitor or any other Person facilitating payments pursuant to this Order, as applicable, after which date any entitlement with respect to such Distribution and any further Distributions pursuant to this Order will be forever discharged and forever barred and the obligations of the Applicant and Monitor with respect thereto will expire, without any compensation therefor; and

b. the amount otherwise payable pursuant to such cancelled cheque will be released to the Applicant and form part of Available Cash.

16. **THIS COURT ORDERS** that all amounts to be paid by the Applicant hereunder will be calculated by the Applicant, with the assistance of the Monitor. All calculations made by the Applicant will be conclusive, final and binding upon Class A Eligible Shareholders, the Applicant and any other Person, absent manifest error.

17. **THIS COURT ORDERS** that, if at any time the Applicant determines, in consultation with the Monitor, that the costs of making a Distribution are likely to exceed the remaining Available Cash, the Applicant, in consultation with the Monitor, may donate any portion of the remaining

Available Cash to one or more charities or otherwise deal with the Available Cash in the manner determined by the Applicant and the Monitor or in accordance with further order of this Court.

18. **THIS COURT ORDERS AND DECLARES** that notwithstanding: (i) the pendency of these CCAA Proceedings; (ii) any applications for a bankruptcy, receivership or other order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), the CCAA or otherwise in respect of the Applicant and any bankruptcy, receivership or other order issued pursuant to any such applications; and (iii) any assignment in bankruptcy made or deemed to be made in respect of the Applicant, all Distributions and payments contemplated by this Order will not constitute nor be deemed to constitute a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA, CCAA or any other applicable federal, provincial or territorial legislation, nor will any Distribution or payment contemplated by this Order constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal, provincial or territorial legislation.

19. **THIS COURT ORDERS AND DECLARES** that any distributions, payments or deliveries under this Order made or assisted by the Monitor shall not constitute a "distribution" and the Monitor shall not constitute a "legal representative" or "representative" of the Applicant or "other person" for the purposes of section 159 of the *Income Tax Act* (Canada), section 270 of the *Excise Tax Act* (Canada), section 46 of the *Employment Insurance Act* (Canada), section 22 of the *Retail Sales Tax Act* (Ontario), section 107 of the *Corporations Tax Act* (Ontario), or any other similar federal, provincial or territorial tax legislation (collectively, the "**Statutes**"), and the Monitor in making any such payments or deliveries of funds or assets in relation to this Order is not "distributing", not shall it be considered to have "distributed", such funds or assets for the purposes of the Statutes, and the Monitor shall not incur any liability under the Statutes for making any payments or deliveries under this Order or failing to withhold amounts, ordered or permitted hereunder, and the Monitor shall not have any liability for any of the Applicant's tax liabilities regardless of how or when such liabilities may have arisen, and is hereby forever released, remised and discharged from any claims against it under or pursuant to the Statutes or otherwise at law, arising as a result of the distributions and deliveries under this Order and any claims of this nature

are hereby forever barred.

ORDERS IN THE CCAA PROCEEDINGS

20. **THIS COURT ORDERS** that:

a. except to the extent that the Initial Order has been varied by or is inconsistent with this Order or any further Order of this Court, the provisions of the Initial Order shall remain in full force and effect until the CCAA Termination Time;

b. the releases, injunctions and prohibitions provided for in the Claims Procedure Order issued in the CCAA Proceedings and dated January 9, 2014 and the Post-Filing Claims Procedure Order issued in the CCAA Proceedings and dated November 30, 2021, be and are hereby confirmed and shall operate in addition to the provisions of this Order, including the releases, injunctions and prohibitions provided for hereunder and thereunder, respectively; and

c. all other Orders made in the CCAA Proceedings shall continue in full force and effect in accordance with their respective terms, except to the extent that such Orders are varied by this Order or any further Orders of this Court in the CCAA Proceedings.

21. **THIS COURT ORDERS** that the Applicant and the Monitor shall have all of the protections given to them by the CCAA, the Initial Order and any further order issued by the Court in the CCAA Proceedings and that none of the Applicant, the Directors, the Monitor or their respective Representatives shall incur any liability or obligation as a result of carrying out their obligations under, or exercising any authority or discretion granted by, this Order.

TERMINATION, DISCHARGE AND DISSOLUTION

22. **THIS COURT ORDERS** that immediately upon the Monitor serving on the Service List, posting on the Monitor's Website and filing with the Court a certificate substantially in the form attached as **Schedule "B"** hereto (the "**Monitor's CCAA Completion Certificate**") certifying the completion of all matters to be attended to in connection with the CCAA Proceedings to the satisfaction of the Monitor, the CCAA Proceedings are hereby terminated without any other act or formality and the Administration Charge and Directors' Charge (as each are defined in the Initial Order) shall be terminated, released and discharged.

23. **THIS COURT ORDERS** pursuant to the CCAA and section 217 of the Canada Business Corporations Act that, from and after the CCAA Termination Time, (A) the Applicant shall be dissolved without any further act or formality, including any approval, consent or authorization of any shareholder or other security holder of the Applicant or any Governmental Authority, (B) that the Applicant is authorized to file with the appropriate Governmental Authority such articles, agreements or other documents of dissolution for the Applicant to the extent required by Applicable Law, and (C) the Director appointed under the Canada Business Corporations Act is hereby authorized and directed to (i) issue a certificate of dissolution in respect of the dissolution of the Applicant pursuant to this Order upon receipt from or on behalf of the Applicant of a copy of this Order and the Monitor's CCAA Completion Certificate filed with the Court; (ii) date the certificate of dissolution as of the day the Director receives a copy of this Order and the Monitor's CCAA Completion Certificate filed with the Court; (iii) record the date of receipt of this Order and the Monitor's CCAA Completion Certificate filed with the Court; (iv) send the certificate of dissolution, or a copy, image or photographic, electronic or other reproduction of the certificate of dissolution, to the Applicant or its agent or the Monitor; and (v) publish a notice of the issuance of the certificate of dissolution in a publication generally available to the public.

24. **THIS COURT ORDERS** that at the CCAA Termination Time, without any further act or formality, FTI is hereby discharged from its duties as Monitor and has no further duties, obligations, or responsibilities as Monitor from and after the CCAA Termination Time; provided however, notwithstanding the discharge of FTI as Monitor, the Monitor shall have the authority to carry out,

complete or address any matters that are ancillary or incidental to the CCAA Proceedings following the CCAA Termination Time, as may be required (collectively, the "**Monitor Incidental Matters**") and shall be entitled to act as Monitor in relation to such Monitor Incidental Matters.

25. **THIS COURT ORDERS** that, notwithstanding any provision of this Order, the termination of the CCAA Proceedings or the discharge of the Monitor, (i) nothing herein shall affect, vary, derogate from, limit or amend, and FTI and its legal counsel shall continue to have the benefit of, all of the rights, approvals, releases, and protections in favour of the Monitor and its legal counsel at common law or pursuant to the CCAA, the Initial Order, or any other order of this Court in the CCAA Proceedings, all of which are expressly continued and confirmed, including in connection with any Monitor Incidental Matters or any other actions taken by the Monitor pursuant to this Order following the CCAA Termination Time, and (ii) nothing herein impacts the validity of any orders of this Court made in the CCAA Proceedings or any actions or steps taken by any Person pursuant to or as authorized by any orders of this Court made in the CCAA Proceedings.

RELEASES

26. **THIS COURT ORDERS AND DECLARES** that, as at the CCAA Termination Time, the Released Parties are hereby fully, finally and irrevocably released and discharged from all Released Claims and any such Released Claims are hereby released, stayed, extinguished and forever barred and the Released Parties shall have no liability or obligation in respect thereof, provided that the Released Claims shall not include any claim or liability arising out of gross negligence or willful misconduct on the part of the applicable Released Party.

27. **THIS COURT ORDERS** that, as at the CCAA Termination Time, all Persons shall be and shall be deemed to be permanently and forever barred, estopped, stayed and enjoined from: (i) commencing, conducting, continuing or making in any manner or forum, directly or indirectly, any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative or other forum) against any of the Released Parties with respect to any and all Released Claims; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against any of the Released Parties or their property with respect to any and

all Released Claims; (iii) commencing, conducting, continuing or making against any other Person in any manner or forum, directly or indirectly, any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative or other forum) that relates to a Released Claim if such other Person commences, conducts, continues or makes a claim or might reasonably be expected to commence, conduct, continue or make, directly or indirectly, any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative or other forum), including by way of contribution or indemnity or other relief, against one or more of the Released Parties, unless such claim of such other Person is itself a Released Claim; and (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any encumbrance of any kind against any of the Released Parties or their property or assets with respect to any and all Released Claims.

28. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against of the Released Parties in any way arising from or related to the CCAA Proceedings, except with prior leave of this Court and on prior written notice to the applicable Released Parties.

APPROVAL OF MONITOR ACTIVITIES

29. **THIS COURT ORDERS AND DECLARES** that each of the Reports and the respective activities and conduct of the Monitor as described therein be and are hereby ratified and approved.

30. **THIS COURT ORDERS AND DECLARES** that the Monitor has satisfied all of its obligations up to and including the date of this Order and all claims of any kind or nature against the Monitor arising from or relating to these CCAA Proceedings up to and including the date of this Order are hereby barred, extinguished and released save and except for claims of gross negligence or wilful misconduct on the part of the Monitor.

31. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA and the powers provided to the Monitor herein and under the other Orders of this Court, shall be and is hereby authorized, directed and empowered to perform its functions and fulfill its obligations under this Order and to complete all matters incidental to the termination of the CCAA Proceedings.

APPROVAL OF FEES

32. **THIS COURT ORDERS** that (i) the fees and disbursements of the Monitor from June 1, 2017 to October 31, 2022 totaling CAD $521,267.76 (including HST) and its estimate of fees and disbursements from November 1, 2022 through completion of its remaining activities in connection with these CCAA Proceedings of $355,000 (excluding HST) and (ii) the fees and disbursements of legal counsel to the Monitor from May 1, 2017 to October 31, 2022 totaling CAD$194,204.75 (including HST) and its estimate of fees and disbursements from November 1, 2022 through completion of the remaining activities in connection with these CCAA Proceedings of CAD$120,000 (excluding HST), be and are hereby approved.

33. **THIS COURT ORDERS** that the Monitor and its legal counsel shall not be required to pass any further accounts in these CCAA Proceedings unless otherwise requested by the Applicant.

APPROVAL OF IAS AGREEMENT

34. **THIS COURT ORDERS** that the form of IAS Agreement attached as Confidential Exhibit "1" to the Ross Affidavit is hereby approved, and that the execution, delivery, entry into, compliance with and performance by the Applicant and the Monitor of the IAS Agreement in substantially the same form and content (with such changes therein, including, without limitation, to the parties thereto, if any, as the Monitor, may, in its sole discretion, approve, such approval of any such changes to be conclusively evidenced by the Monitor's execution and delivery of the IAS Agreement), is hereby ratified, authorized and approved and each of the Applicant and the Monitor is authorized to perform its obligations thereunder.

EXTENSION OF SECOND AMENDED AND RESTATED IAA

35. **THIS COURT ORDERS** that the Applicant is authorized to execute and deliver an Extension Notice extending the Term of the Second Amended and Restated IAA to and including the last day of the Stay Extension Period (the "**Extended Term**") and that such extension is hereby approved (as each term is defined in the Second Amended and Restated IAA).

36. **THIS COURT ORDERS** that the Applicant is authorized to continue to perform its

obligations under the Second Amended and Restated IAA during the Extended Term.

37. **THIS COURT ORDERS** that paragraphs 4 to 7 of the Stay Extension Order of the Honourable Mr. Justice Hainey made March 22, 2019 shall continue to apply during the Extended Term.

SEALING ORDER

38. **THIS COURT ORDERS** that Confidential Exhibit "1" to the Ross Affidavit, which contains confidential information, shall be kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the court file for these proceedings, in a sealed envelope attached to a notice that sets out the title of these proceedings and the statement that the contents are subject to this Motion and sealing Order, and remain under seal until further Order of this Court.

39. **THIS COURT ORDERS** that Confidential Exhibit "2" to the Ross Affidavit, which contains a confidential summary of the Fund's significant remaining investments, shall be kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the court file for these proceedings, in a sealed envelope attached to a notice that sets out the title of these proceedings and the statement that the contents are subject to this Motion and sealing Order, and remain under seal until further Order of this Court.

NOTICE

40. **THIS COURT ORDERS** that, as soon as practicable after the granting of this Order, the Monitor shall cause a copy of this Order to be posted on the Monitor's Website, and the Applicant shall serve a copy on the parties on the Service List and those parties who appeared at the hearing of the motion for this Order.

41. **THIS COURT ORDERS** that the measures in paragraph 39 shall constitute good and sufficient service and notice of this Order on all Persons who may be entitled to receive notice thereof or who may have an interest in these proceedings, and no other form of notice or service need be made on such Persons and no other document or material need be served on such Persons in

respect of these proceedings.

GENERAL

42. **THIS COURT ORDERS** that notwithstanding any other provision of this Order, the Applicant and the Monitor shall each remain entitled to seek advice, directions or assistance from the Court in respect of any matters arising from or in relation to the matters set out herein.

43. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all persons against whom it may be enforceable.

44. **THIS COURT ORDERS** that this Order is effective from the date that it is made, and is enforceable without any need for entry and filing.

45. **THIS COURT ORDERS** that the Applicant and the Monitor shall be at liberty and are 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.

46. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court of any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada) and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province or territory of Canada and any court or any judicial, regulatory or administrative body of the United States of America, and of any other nation or state, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

_____

SCHEDULE "A"

FORM OF MONITOR'S DISTRIBUTION CERTIFICATE

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

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 PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO GROWTHWORKS CANADIAN FUND LTD.

MONITOR'S DISTRIBUTION CERTIFICATE

WHEREAS pursuant to the Order of this Court dated October 1, 2013, as amended and restated on October 29, 2013, FTI Consulting Canada Inc. was appointed as the monitor (the "**Monitor**") of the Applicant;

AND WHEREAS pursuant to the Order of this Court dated December 18, 2024 (the "**Amended and Restated Discharge and Dissolution Order**"), this Court authorized the Applicant or its transfer agent or other third party appointed by the Applicant, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Applicant, to make one or more Distributions from Available Cash to Eligible Shareholders;

AND WHEREAS paragraph 9 of the Amended and Restated Discharge and Dissolution Order requires the Monitor, on each Distribution Date, to serve on the Service List and post on the Monitor's Website a certificate certifying that a Distribution has been made and specifying the aggregate amount of the Distribution and the amount of the Distribution made on account of each Class "A" share held by an Eligible Shareholder;

AND WHEREAS a Distribution has been made;

AND WHEREAS all capitalized terms used, but not defined, herein shall have the meanings

given to them in the Amended and Restated Discharge and Dissolution Order.

THE MONITOR HEREBY CERTIFIES that:

1. a Distribution was made on _____, which is a Distribution Date for the purposes of the Amended and Restated Discharge and Dissolution Order;

2. the aggregate amount of the Distribution to Class A Eligible Shareholders was $_____; and

3. the amount of the Distribution made on account of each Class "A" share held by a Class A Eligible Shareholder was $_____.

FTI Consulting Canada Inc., solely in its capacity as court appointed monitor of the Applicant, and not in its personal capacity or in any other capacity

Per: _____

Name:

Title:

SCHEDULE "B"

FORM OF MONITOR'S CCAA COMPLETION CERTIFICATE

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

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 PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO GROWTHWORKS CANADIAN FUND LTD.

MONITOR'S CCAA COMPLETION CERTIFICATE

WHEREAS pursuant to the Order of this Court dated October 1, 2013, as amended and restated on October 29, 2013, FTI Consulting Canada Inc. was appointed as the monitor (the "**Monitor**") of the Applicant;

AND WHEREAS pursuant to the Order of this Court dated December 18, 2024 (the "**Amended and Restated Discharge and Dissolution Order**"), this Court authorized the Applicant to cease taking any further steps to liquidate its investment portfolio if the Applicant, in consultation with Crimson Capital (for so long as Crimson Capital continues to serve as an investment advisor to the Applicant) and the Monitor, determined that it was no longer appropriate to continue those efforts considering the proceeds likely to be realized and the cost of such efforts;

AND WHEREAS the Monitor is satisfied that the Applicant has taken appropriate steps to effect an orderly liquidation of its investment portfolio;

AND WHEREAS pursuant to the Amended and Restated Discharge and Dissolution Order, this Court authorized the Applicant or its transfer agent or other third party appointed by the Applicant, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Applicant, to make one or more Distributions;

AND WHEREAS one or more Distributions have been made in accordance with the Amended and Restated Discharge and Dissolution Order;

AND WHEREAS the Applicant has determined, in consultation with the Monitor, that the costs of making a further Distribution are likely to exceed the Available Cash;

AND WHEREAS paragraph 22 of the Amended and Restated Discharge and Dissolution Order requires that, upon the completion of all matters to be attended to in connection with the CCAA Proceedings to the satisfaction of the Monitor, the Monitor shall serve on the Service List, post on the Monitor's Website and file with the Court a certificate certifying that all matters to be attended to in connection with the CCAA Proceedings have been, to the satisfaction of the Monitor, attended to;

AND WHEREAS the Monitor is satisfied that all matters to be attended to in connection with the CCAA Proceedings have been attended to;

AND WHEREAS all capitalized terms used, but not defined, herein shall have the meanings given to them in the Amended and Restated Discharge and Dissolution Order.

THE MONITOR HEREBY CERTIFIES that:

1. All matters to be attended to in connection with the CCAA Proceedings have been attended to;

2. Upon the filing of this Monitor's CCAA Completion Certificate:

    a. the CCAA Proceedings shall be terminated;

    b. the Applicant shall be dissolved without any further act or formality, including any approval, consent or authorization of any shareholder or other security holder of the Applicant or any Governmental Authority;

    c. FTI Consulting Canada Inc. shall be discharged and released from its duties, obligations and responsibilities as Monitor of the Applicant and shall be forever

released, remised and discharged from any claims against it relating to its activities as Monitor of the Applicant;

d. the releases and injunctions provided for in the Amended and Restated Discharge and Dissolution Order shall become effective; and

e. the Administration Charge and Directors' Charge shall be terminated, released and discharged;

3. This Certificate is delivered by the Monitor on _____ at _____ which is the CCAA Termination Time for the purposes of the Amended and Restated Discharge and Dissolution Order.

FTI Consulting Canada Inc., solely in its capacity as court appointed monitor of the Applicant, and not in its personal capacity or in any other capacity

Per: _____

Name:

Title:

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-13-10279-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

AMENDED AND RESTATED DISCHARGE AND DISSOLUTION ORDER

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Lawyers for the Applicant,
GrowthWorks Canadian Fund Ltd.

Tab 4

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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE ~~MR.~~ JUSTICE ~~PENNY~~ CAVANAGH	)	~~THURSDAY~~WEDNESDAY, THE 1~~9~~8TH DAY OF ~~JANUARY~~DECEMBER, 202~~3~~4

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.

~~DISTRIBUTION, TERMINATION~~AMENDED AND RESTATED DISCHARGE AND DISSOLUTION ORDER

(Amending Distribution, Termination and Discharge Order dated January 19, 2023)

THIS MOTION, made by GrowthWorks Canadian Fund Ltd. (the "**Applicant**" or the "**Fund**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Amended and Restated Discharge and Dissolution ~~o~~Order:

(i) Abridging service of the motion materials, validating service and the notice provided to all parties, including of the Fund's intention to surrender its remaining investments, and dispensing with further service and notice thereof;

(ii) ~~(i)~~ extending the stay period defined in paragraph 14 of the Initial Order (defined below) up to the CCAA Termination Time (the "**Stay Period**");

(iii) ~~(ii)~~ granting certain relief related to the liquidation of the Applicant's portfolio;

(iv) ~~(iii)~~ authorizing the making of distributions to Class "A" shareholders and Class "B" shareholders of the Applicant;

(v) ~~(iv)~~ approving the following reports (collectively, the "**Reports**") Twenty-First Report of FTI Consulting Canada Inc. ("**FTI**"), in its capacity as monitor of the Applicant (the "**Monitor**") dated December 14, 2017 (the "**Twenty-First Report**"), the Twenty-Second Report of the Monitor dated June 25, 2018 ("**Twenty-Second Report**"), the Twenty-Third Report of the Monitor dated February 14, 2019 ("**Twenty-Third Report**"), the Twenty-Fourth Report of the Monitor dated March 21, 2019 ("**Twenty-Fourth Report**"), the Twenty-Fifth Report of the Monitor dated December 16, 2019 (the "**Twenty-Fifth Report**"), the Twenty-Sixth Report of the Monitor dated September 18, 2020 ("**Twenty-Sixth Report**"), the Twenty Seventh-Report of the Monitor dated June 25, 2021 ("**Twenty Seventh-Report**"), the Twenty-Eighth Report of the Monitor dated November 27, 2021 (the "**Twenty-Eighth Report**"), the Twenty-Ninth Report of the Monitor dated March 22, 2022 (the "**Twenty-Ninth Report**") ~~and~~ the Thirtieth Report of the Monitor dated December 9, 2022 (the "**Thirtieth Report**"), and the Thirty-First Report of the Monitor (the "**Thirty-First Report**"), as well as the activities outlined in each such report;

(vi) ~~(v)~~ approving the fees and disbursements of the Monitor and its legal counsel;

(vii) ~~(vi)~~ providing for the release of the Monitor, the Applicant and their Representatives (as defined below), including confirming that the releases apply to the Applicant's decisions to surrender the remaining assets of the Applicant;

(viii) ~~(vii)~~ as of the CCAA Termination Time ~~(defined below)~~, dissolving the Applicant, discharging the Monitor, terminating the CCAA Proceedings ~~(defined below)~~ and discharging the Administration Charge and the Directors' Charge (as each is defined in the Initial Order ~~(defined below)~~);

(ix) approving certain amendments to paragraph 21 hereof to approve and authorize the dissolution of the Applicant pursuant to the CCAA and section 217 of the *Canada Business Corporations Act* (the "**CBCA**");

(x) ~~(viii)~~ sealing ~~a~~the confidential exhibits; ~~and~~

(xi) ~~(ix)~~ approving and authorizing the Applicant to enter into the IAS Agreement and an extension ~~to~~of the ~~Amended and Restated Investment Advisor Agreement between Crimson Capital Inc. ("**Crimson Capital**") and the Fund (the "~~term of the Second Amended and Restated IAA~~")~~ (each as defined below) to and including the CCAA Termination Time,

(xii) and, such other relief as counsel may request and this Court may deem just,

was heard this day by way of judicial video conference via Zoom in Toronto, Ontario.

ON READING the Motion Record of the Fund, including the Notice of Motion (the "**Motion Record**") and the affidavit of C. Ian Ross sworn on December ~~2~~11, 202~~2~~4 (the "**Ross Affidavit**")~~, the Responding Motion Record of GrowthWorks WV Management Ltd. (the "**Former Manager**"), including the affidavit of Derek Lew sworn on December 23, 2022, the Reply Motion Record of the Fund, including the affidavit of C. Ian Ross sworn on January 6, 2023, and the Thirtieth~~ and the Thirty-First Report, and on hearing the submissions of counsel for the Applicant~~, the Former Manager~~ and the Monitor, and such other counsel that were present as listed on the Participant Slip, no one else appearing although properly served as appears from the affidavit of service, filed:

SERVICE & NOTICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record and Thirty-First Report is hereby abridged and validated such that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that the notice provided as described in the Ross Affidavit, including of the Fund's intention to surrender its remaining investments is hereby validated and approved.

INTERPRETATION

3. ~~1.~~ **THIS COURT ORDERS** that, in addition to terms defined elsewhere herein, (i) capitalized terms used, but not defined, herein shall have the meanings given to them in the Initial Order, and (ii) the following terms shall have the following meanings:

a. "**Applicable Law**" means:

i. any applicable domestic or foreign law including any statute, subordinate legislation or treaty, as well as the common law; and

ii. any applicable and enforceable rule, regulation, requirement, order, judgment, injunction, award or decree of a Governmental Authority.

b. "**Available Cash**" means the available cash and cash equivalents of the Applicant;

c. "**Business Day**" means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;

d. "**CCAA Proceedings**" means the within proceedings in respect of the Applicant under the CCAA;

e. "**CCAA Termination Date**" means the date on which that the Monitor delivers the Monitor's CCAA Completion Certificate (defined below);

f. "**CCAA Termination Time**" means such time on the CCAA Termination Date as the Monitor may determine and designate in the Monitor's CCAA Completion Certificate (defined below);

g. "**Class A Distribution Pool**" means, in respect of any Distribution, the Available Cash on the Distribution Record Date for such Distribution less (i) the aggregate amount of any Distributions to be made pursuant to paragraph ~~11~~11 of this Order and any further order of this Court made pursuant to paragraph ~~12~~12 of this Order,

(ii) any amounts due and owing to creditors of the Applicant on such Distribution Record Date, (iii) the estimated costs of the Applicant in making such Distribution, and (iv) a reserve for the estimated costs of the Applicant, the Monitor and their respective Representatives from such Distribution Record Date to the CCAA Termination Time, in each case determined by the Applicant in consultation with the Monitor;

h. "**Class A Eligible Shareholder**" means, in respect of any Distribution, a holder of one or more Class "A" shares of the Applicant as of the close of business on the Distribution Record Date for such Distribution that has not been barred from receiving distributions pursuant to paragraphs ~~13~~13 or ~~15~~15 hereof;

i. "**Court**" means the Ontario Superior Court of Justice (Commercial List);

j. "**Director**" means any Person who, as at the CCAA Termination Time, is a former or current director or officer of the Applicant or any other Person of a similar position or who by Applicable Law is deemed to be or is treated similarly to a director or officer of the Applicant or who currently manages or supervises the management of the business and affairs of the Applicant or did so in the past;

k. "**Distribution**" means a distribution to be made pursuant to this Order;

l. "**Distribution Date**" means the date on which a Distribution is made pursuant to this Order as designated in a Monitor's Distribution Certificate (defined below);

m. "**Distribution Record Date**" means, in respect of any Distribution, the date that is seven Business Days prior to the date upon which such Distribution is made;

n. "**Filing Date**" means October 1, 2013;

o. "**Governmental Authority**" means any domestic or foreign legislative, executive, judicial or administrative body or person having jurisdiction in the relevant circumstances;

p. "**including**" means including, without limitation;

q. "**IAS Agreement**" means the wind-up services agreement approved herein.

r. ~~q.~~ "**Initial Order**" means the initial order of the Court made in the CCAA Proceedings on October 1, 2013, as amended and restated on October 29, 2013;

s. ~~r.~~ "**Monitor's Website**" means the website established by the Monitor in respect of the CCAA Proceedings;

t. ~~s.~~ "**Person**" means any individual, corporation, firm, limited or unlimited liability company, general or limited partnership, association (incorporated or unincorporated), trust, unincorporated organization, joint venture, trade union, government authority or any agency, regulatory body or officer thereof or any other entity, wherever situate or domiciled, and whether or not having legal status, and whether acting on their own or in a representative capacity;

u. ~~t.~~ "**Released Claims**" means any and all demands, claims (including claims for contribution or indemnity), actions, causes of action, counterclaims, suits, debts, sums of money, liabilities, accounts, covenants, damages, judgments, orders (including orders for injunctive relief or specific performance and compliance orders), expenses, executions, encumbrances and recoveries on account of any liability, obligation, demand or cause of action of whatever nature (including for, in respect of or arising out of environmental matters, pensions or post-employment benefits or alleged oppression, misrepresentation, wrongful conduct, fraud or breach of fiduciary duty by the Applicant or any of its Representatives) that any Person has or may be entitled to assert, whether known or unknown, matured or unmatured, contingent or actual, direct, indirect or derivative, at common law, in

equity or under statute, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing, matter or occurrence existing or taking place at or prior to the CCAA Termination Time, that in any way relate to or arise out of or in connection with (i) the assets, obligations, business or affairs of the Applicant, including the investment portfolio of the Applicant; or (ii) the CCAA Proceedings or any matter, transaction or occurrence involving the Applicant, the Monitor or any of their respective Representatives occurring in or in connection with the CCAA Proceedings, including but not limited to decisions to surrender any remaining assets of the Funds irrespective of any future potential realization opportunities and including if a realization opportunity subsequently arises, but "Released Claims" does not include a claim that cannot be compromised due to the provisions of subsection 5.1(2) of the CCAA;

v. ~~u.~~ "**Released Parties"** means each of the Directors, the Monitor and its Representatives and the Applicant's Representatives;

w. ~~v.~~ "**Representatives**" means, in relation to a Person, such Person's current and former directors, officers, partners, employees, consultants, legal counsel, accountants, auditors, actuaries, advisors and agents, the current and former directors, officers, partners and employees of any such consultant, legal counsel, accountant, auditor, actuary, advisor or agent, and, in each case, including their respective heirs, executors, administrators and other legal representatives, successors and assigns; and

x. ~~w.~~ "**Service List**" means the service list in the CCAA Proceedings.

STAY EXTENSION

4. ~~2.~~ **THIS COURT ORDERS** that the Stay Period is hereby extended until and including the ~~earlier of: (i) December 31, 2024; and (ii) the~~ CCAA Termination Time (the "**Stay Extension Period**").

COMPLETION OF ORDERLY LIQUIDATION

5. ~~3.~~ **THIS COURT ORDERS** that, during the Stay Extension Period, the Applicant may continue to take such steps as the Applicant, in consultation with Crimson Capital (for so long as Crimson Capital continues to serve as an investment advisor to the Fund) and the Monitor, determines is appropriate to effect an orderly liquidation of its investment portfolio.

6. ~~4.~~ **THIS COURT ORDERS** that if the Applicant, in consultation with Crimson Capital (for so long as Crimson Capital continues to serve as an investment advisor to the Fund) and the Monitor, determines that it is no longer appropriate to continue its efforts to liquidate its investment portfolio considering the proceeds likely to be realized, the estimated cost of such efforts and such other factors as the Applicant, in consultation with the Monitor, determines relevant in the circumstances, the Applicant may cease taking any further steps to liquidate its investment portfolio.

7. ~~5.~~ **THIS COURT ORDERS** that, upon the Applicant ceasing to take any further steps to liquidate its investment portfolio, the Applicant, in consultation with the Monitor, may donate any security held by the Applicant to one or more charities or otherwise deal with any security held by the Applicant in the manner determined by the Applicant, in consultation with the Monitor, or in accordance with further order of this Court.

AUTHORIZATION OF DISTRIBUTIONS

8. ~~6.~~ **THIS COURT ORDERS** that the Applicant or its transfer agent or other third party appointed by the Applicant, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Applicant, may make one or more Distributions from the Class A Distribution

Pool to Class A Eligible Shareholders in accordance with the respective terms of the various outstanding series of Class "A" shares of the Applicant, subject to the terms of this Order.

9. ~~7.~~ **THIS COURT ORDERS** that, on each Distribution Date, the Monitor shall serve on the Service List and post on the Monitor's Website, a certificate in the form attached as **Schedule "A"** hereto (a "**Monitor's Distribution Certificate**") certifying that a Distribution has been made and specifying the aggregate amount of the Distribution to Class A Eligible Shareholders and the amount of the Distribution made on account of each Class "A" share held by a Class A Eligible Shareholder pursuant to this Order.

10. ~~8.~~ **THIS COURT ORDERS** that any Distribution to a Class A Eligible Shareholder shall be made by (i) cheque sent by prepaid ordinary mail to the address of such Class A Eligible Shareholder on file with the Applicant or its transfer agent on the Distribution Record Date for such Distribution, or (ii) electronic transfer of immediately available funds to an account designated in writing by such Class A Eligible Shareholder.

11. ~~9.~~ **THIS COURT ORDERS** that, on the initial Distribution Date, the Applicant or its transfer agent or other third party appointed by the Applicant, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Applicant, may make a Distribution to the holder of the Class "B" shares of the Applicant as of such Distribution Record Date in accordance with the terms of the Class "B" shares of the Applicant, subject to the terms of this Order, by (i) cheque sent by prepaid ordinary mail to the address of the applicable shareholder on file with the Applicant or its transfer agent on the Distribution Record Date for such Distribution, or (ii) electronic transfer of immediately available funds to an account designated in writing by the applicable shareholder.

12. ~~10.~~ **THIS COURT ORDERS AND DECLARES** that the entitlement of the holder of the Class "C" shares of the Applicant to receive any further dividends or payments on account of those shares, and the priority of any such dividends or payments, shall be subject to further order of this Court.

13. ~~11.~~ **THIS COURT ORDERS** that the Applicant and any other Person facilitating payments pursuant to this Order: (i) shall, notwithstanding anything to the contrary, not be required to make any payment hereunder in an amount less than $5. If the amount to which a Person would be entitled in a Distribution hereunder is less than $5 then such payment shall be forfeited and will be released to the Applicant and form part of Available Cash; and (ii) will be entitled to deduct and withhold from any such payment to any Person such amounts as may be required to be deducted or withheld under any Applicable Law and to remit such amounts to the appropriate Governmental Authority or other Person entitled thereto. To the extent that amounts are so withheld or deducted and remitted to the appropriate Governmental Authority or other Person, such withheld or deducted amounts will be treated for all purposes hereof as having been paid to such Person as the remainder of the payment in respect of which such withholding or deduction was made. Any Class A Eligible Shareholder whose address on file with the Applicant or its transfer agent on the applicable Distribution Record Date is not a Canadian address will be treated as a non-resident of Canada for purposes of any applicable non-resident withholding tax on all payments hereunder, subject to receipt by the Applicant of information satisfactory to it (in their sole discretion) that such Class A Eligible Shareholder is not a non-resident. No gross-up or additional amount will be paid on any payment hereunder to the extent the Applicant or any other Person deducts or withholds amounts pursuant to this paragraph. Notwithstanding any withholding or deduction, each Person receiving a payment will have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any Governmental Authority (including income and other tax obligations on account of such distribution).

14. ~~12.~~ **THIS COURT ORDERS** that, if any Distribution made to a Class A Eligible Shareholder under this Order is returned as undeliverable or is unable to be electronically transferred (an "**Undeliverable Distribution**"), then neither the Applicant nor the Monitor will be required to make further efforts to deliver such Distribution to such Class A Eligible Shareholder unless and until the Applicant and Monitor are notified in writing by such Class A Eligible Shareholder of such Class A Eligible Shareholder's current address or provides written transfer instructions acceptable to the Applicant and the Monitor in their sole discretion, at which time all such Distributions will be made to such Class A Eligible Shareholder. The obligations of the

Applicant and Monitor to a Class A Eligible Shareholder with respect to an Undeliverable Distribution will expire on the first Business Day that is six months following the applicable Distribution Date, after which date any entitlement with respect to such Undeliverable Distribution and any further Distributions pursuant to this Order will be forever released, discharged and barred, without any compensation therefor. No interest will be payable in respect of an Undeliverable Distribution. On the first Business Day that is six months following the applicable Distribution Date for an Undeliverable Distribution, the amount of any Undeliverable Distribution will be released to the Applicant and form part of Available Cash.

15. ~~13.~~ **THIS COURT ORDERS** that, if any cheque or electronic transfer on account of a Distribution to a Class A Eligible Shareholder under this Order is not cashed or accepted, as applicable, within six months after the date of the applicable Distribution Date (an "**Uncashed Distribution**"):

a. such cheque may be cancelled by the Applicant, the Monitor or any other Person facilitating payments pursuant to this Order, as applicable, after which date any entitlement with respect to such Distribution and any further Distributions pursuant to this Order will be forever discharged and forever barred and the obligations of the Applicant and Monitor with respect thereto will expire, without any compensation therefor; and

b. the amount otherwise payable pursuant to such cancelled cheque will be released to the Applicant and form part of Available Cash.

16. ~~14.~~ **THIS COURT ORDERS** that all amounts to be paid by the Applicant hereunder will be calculated by the Applicant, with the assistance of the Monitor. All calculations made by the Applicant will be conclusive, final and binding upon Class A Eligible Shareholders, the Applicant and any other Person, absent manifest error.

17. ~~15.~~ **THIS COURT ORDERS** that, if at any time the Applicant determines, in consultation with the Monitor, that the costs of making a Distribution are likely to exceed the remaining

Available Cash, the Applicant, in consultation with the Monitor, may donate any portion of the remaining Available Cash to one or more charities or otherwise deal with the Available Cash in the manner determined by the Applicant and the Monitor or in accordance with further order of this Court.

18. ~~16.~~ **THIS COURT ORDERS AND DECLARES** that notwithstanding: (i) the pendency of these CCAA Proceedings; (ii) any applications for a bankruptcy, receivership or other order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), the CCAA or otherwise in respect of the Applicant and any bankruptcy, receivership or other order issued pursuant to any such applications; and (iii) any assignment in bankruptcy made or deemed to be made in respect of the Applicant, all Distributions and payments contemplated by this Order will not constitute nor be deemed to constitute a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA, CCAA or any other applicable federal, provincial or territorial legislation, nor will any Distribution or payment contemplated by this Order constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal, provincial or territorial legislation.

19. ~~17.~~ **THIS COURT ORDERS AND DECLARES** that any distributions, payments or deliveries under this Order made or assisted by the Monitor shall not constitute a "distribution" and the Monitor shall not constitute a "legal representative" or "representative" of the Applicant or "other person" for the purposes of section 159 of the *Income Tax Act* (Canada), section 270 of the *Excise Tax Act* (Canada), section 46 of the *Employment Insurance Act* (Canada), section 22 of the *Retail Sales Tax Act* (Ontario), section 107 of the *Corporations Tax Act* (Ontario), or any other similar federal, provincial or territorial tax legislation (collectively, the "**Statutes**"), and the Monitor in making any such payments or deliveries of funds or assets in relation to this Order is not "distributing", not shall it be considered to have "distributed", such funds or assets for the purposes of the Statutes, and the Monitor shall not incur any liability under the Statutes for making any payments or deliveries under this Order or failing to withhold amounts, ordered or permitted hereunder, and the Monitor shall not have any liability for any of the Applicant's tax liabilities regardless of how or when such liabilities may have arisen, and is hereby forever released, remised

and discharged from any claims against it under or pursuant to the Statutes or otherwise at law, arising as a result of the distributions and deliveries under this Order and any claims of this nature are hereby forever barred.

ORDERS IN THE CCAA PROCEEDINGS

20. ~~18.~~ **THIS COURT ORDERS** that:

a. except to the extent that the Initial Order has been varied by or is inconsistent with this Order or any further Order of this Court, the provisions of the Initial Order shall remain in full force and effect until the CCAA Termination Time;

b. the releases, injunctions and prohibitions provided for in the Claims Procedure Order issued in the CCAA Proceedings and dated January 9, 2014 and the Post-Filing Claims Procedure Order issued in the CCAA Proceedings and dated November 30, 2021, be and are hereby confirmed and shall operate in addition to the provisions of this Order, including the releases, injunctions and prohibitions provided for hereunder and thereunder, respectively; and

c. all other Orders made in the CCAA Proceedings shall continue in full force and effect in accordance with their respective terms, except to the extent that such Orders are varied by this Order or any further Orders of this Court in the CCAA Proceedings.

21. ~~19.~~ **THIS COURT ORDERS** that the Applicant and the Monitor shall have all of the protections given to them by the CCAA, the Initial Order and any further order issued by the Court in the CCAA Proceedings and that none of the Applicant, the Directors, the Monitor or their respective Representatives shall incur any liability or obligation as a result of carrying out their obligations under, or exercising any authority or discretion granted by, this Order.

TERMINATION, DISCHARGE AND DISSOLUTION

22. ~~20.~~ **THIS COURT ORDERS** that immediately upon the Monitor serving on the Service List, posting on the Monitor's Website and filing with the Court a certificate substantially in the form attached as **Schedule "B"** hereto (the "**Monitor's CCAA Completion Certificate**") certifying the completion of all matters to be attended to in connection with the CCAA Proceedings to the satisfaction of the Monitor, the CCAA Proceedings are hereby terminated without any other act or formality and the Administration Charge and Directors' Charge (as each are defined in the Initial Order) shall be terminated, released and discharged.

23. ~~21.~~ **THIS COURT ORDERS** pursuant to the CCAA and section 217 of the Canada Business Corporations Act that, from and after the CCAA Termination Time, (A) the Applicant shall be dissolved without any further act or formality, including any approval, consent or authorization of any shareholder or other security holder of the Applicant or any Governmental Authority, ~~provided, however,~~(B) that the Applicant ~~shall cause to be~~is authorized to file~~d~~ with the appropriate Governmental Authority such articles, agreements or other documents of dissolution for the Applicant to the extent required by Applicable Law~~.~~, and (C) the Director appointed under the Canada Business Corporations Act is hereby authorized and directed to (i) issue a certificate of dissolution in respect of the dissolution of the Applicant pursuant to this Order upon receipt from or on behalf of the Applicant of a copy of this Order and the Monitor's CCAA Completion Certificate filed with the Court; (ii) date the certificate of dissolution as of the day the Director receives a copy of this Order and the Monitor's CCAA Completion Certificate filed with the Court; (iii) record the date of receipt of this Order and the Monitor's CCAA Completion Certificate filed with the Court; (iv) send the certificate of dissolution, or a copy, image or photographic, electronic or other reproduction of the certificate of dissolution, to the Applicant or its agent or the Monitor; and (v) publish a notice of the issuance of the certificate of dissolution in a publication generally available to the public.

24. ~~22.~~ **THIS COURT ORDERS** that at the CCAA Termination Time, without any further act or formality, FTI is hereby discharged from its duties as Monitor and has no further duties,

obligations, or responsibilities as Monitor from and after the CCAA Termination Time; provided however, notwithstanding the discharge of FTI as Monitor, the Monitor shall have the authority to carry out, complete or address any matters that are ancillary or incidental to the CCAA Proceedings following the CCAA Termination Time, as may be required (collectively, the "**Monitor Incidental Matters**") and shall be entitled to act as Monitor in relation to such Monitor Incidental Matters.

25. ~~23.~~ **THIS COURT ORDERS** that, notwithstanding any provision of this Order, the termination of the CCAA Proceedings or the discharge of the Monitor, (i) nothing herein shall affect, vary, derogate from, limit or amend, and FTI and its legal counsel shall continue to have the benefit of, all of the rights, approvals, releases, and protections in favour of the Monitor and its legal counsel at common law or pursuant to the CCAA, the Initial Order, or any other order of this Court in the CCAA Proceedings, all of which are expressly continued and confirmed, including in connection with any Monitor Incidental Matters or any other actions taken by the Monitor pursuant to this Order following the CCAA Termination Time, and (ii) nothing herein impacts the validity of any orders of this Court made in the CCAA Proceedings or any actions or steps taken by any Person pursuant to or as authorized by any orders of this Court made in the CCAA Proceedings.

RELEASES

26. ~~24.~~ **THIS COURT ORDERS AND DECLARES** that, as at the CCAA Termination Time, the Released Parties are hereby fully, finally and irrevocably released and discharged from all Released Claims and any such Released Claims are hereby released, stayed, extinguished and forever barred and the Released Parties shall have no liability or obligation in respect thereof, provided that the Released Claims shall not include any claim or liability arising out of gross negligence or willful misconduct on the part of the applicable Released Party.

27. ~~25.~~ **THIS COURT ORDERS** that, as at the CCAA Termination Time, all Persons shall be and shall be deemed to be permanently and forever barred, estopped, stayed and enjoined from: (i) commencing, conducting, continuing or making in any manner or forum, directly or indirectly,

any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative or other forum) against any of the Released Parties with respect to any and all Released Claims; (ii) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against any of the Released Parties or their property with respect to any and all Released Claims; (iii) commencing, conducting, continuing or making against any other Person in any manner or forum, directly or indirectly, any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative or other forum) that relates to a Released Claim if such other Person commences, conducts, continues or makes a claim or might reasonably be expected to commence, conduct, continue or make, directly or indirectly, any action, suit, claim, demand or other proceeding of any nature or kind whatsoever (including any proceeding in a judicial, arbitral, administrative or other forum), including by way of contribution or indemnity or other relief, against one or more of the Released Parties, unless such claim of such other Person is itself a Released Claim; and (iv) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any encumbrance of any kind against any of the Released Parties or their property or assets with respect to any and all Released Claims.

28. ~~26.~~ **THIS COURT ORDERS** that no action or other proceeding shall be commenced against of the Released Parties in any way arising from or related to the CCAA Proceedings, except with prior leave of this Court and on prior written notice to the applicable Released Parties.

APPROVAL OF MONITOR ACTIVITIES

29. ~~27.~~ **THIS COURT ORDERS AND DECLARES** that each of the Reports and the respective activities and conduct of the Monitor as described therein be and are hereby ratified and approved.

30. ~~28.~~ **THIS COURT ORDERS AND DECLARES** that the Monitor has satisfied all of its obligations up to and including the date of this Order and all claims of any kind or nature against the Monitor arising from or relating to these CCAA Proceedings up to and including the date of

this Order are hereby barred, extinguished and released save and except for claims of gross negligence or wilful misconduct on the part of the Monitor.

31. ~~29.~~ **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA and the powers provided to the Monitor herein and under the other Orders of this Court, shall be and is hereby authorized, directed and empowered to perform its functions and fulfill its obligations under this Order and to complete all matters incidental to the termination of the CCAA Proceedings.

APPROVAL OF FEES

32. ~~30.~~ **THIS COURT ORDERS** that (i) the fees and disbursements of the Monitor from June 1, 2017 to October 31, 2022 totaling CAD $521,267.76 (including HST) and its estimate of fees and disbursements from November 1, 2022 through completion of its remaining activities in connection with these CCAA Proceedings of $355,000 (excluding HST) and (ii) the fees and disbursements of legal counsel to the Monitor from May 1, 2017 to October 31, 2022 totaling CAD$194,204.75 (including HST) and its estimate of fees and disbursements from November 1, 2022 through completion of the remaining activities in connection with these CCAA Proceedings of CAD$120,000 (excluding HST), be and are hereby approved.

33. ~~31.~~ **THIS COURT ORDERS** that the Monitor and its legal counsel shall not be required to pass any further accounts in these CCAA Proceedings unless otherwise requested by the Applicant.

APPROVAL OF IAS AGREEMENT

34. **THIS COURT ORDERS** that the form of IAS Agreement attached as Confidential Exhibit "1" to the Ross Affidavit is hereby approved, and that the execution, delivery, entry into, compliance with and performance by the Applicant and the Monitor of the IAS Agreement in substantially the same form and content (with such changes therein, including, without limitation, to the parties thereto, if any, as the Monitor, may, in its sole discretion, approve, such approval of any such changes to be conclusively evidenced by the Monitor's execution and delivery of the IAS

Agreement), is hereby ratified, authorized and approved and each of the Applicant and the Monitor is authorized to perform its obligations thereunder.

EXTENSION OF SECOND AMENDED AND RESTATED IAA

35. ~~32.~~ **THIS COURT ORDERS** that the Applicant is authorized to execute and deliver an Extension Notice extending the Term of the Second Amended and Restated IAA to and including the last day of the Stay Extension Period (the "**Extended Term**") and that such extension is hereby approved (as each term is defined in the Second Amended and Restated IAA).

36. ~~33.~~ **THIS COURT ORDERS** that the Applicant is authorized to continue to perform its obligations under the Second Amended and Restated IAA during the Extended Term.

37. ~~34.~~ **THIS COURT ORDERS** that paragraphs 4 to 7 of the Stay Extension Order of the Honourable Mr. Justice Hainey made March 22, 2019 shall continue to apply during the Extended Term.

SEALING ORDER

38. **THIS COURT ORDERS** that Confidential Exhibit "1" to the Ross Affidavit, which contains confidential information, shall be kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the court file for these proceedings, in a sealed envelope attached to a notice that sets out the title of these proceedings and the statement that the contents are subject to this Motion and sealing Order, and remain under seal until further Order of this Court.

39. ~~35.~~ **THIS COURT ORDERS** that Confidential Exhibit "~~H~~2" to the Ross Affidavit, which contains a confidential summary of the Fund's significant remaining investments, shall be kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the court file for these proceedings, in a sealed envelope attached to a notice that sets out the title of these proceedings and the statement that the contents are subject to this Motion and sealing Order, and remain under seal until further Order of this Court.

NOTICE

40. ~~36.~~ **THIS COURT ORDERS** that, as soon as practicable after the granting of this Order, the Monitor shall cause a copy of this Order to be posted on the Monitor's Website, and the Applicant shall serve a copy on the parties on the Service List and those parties who appeared at the hearing of the motion for this Order.

41. ~~37.~~ **THIS COURT ORDERS** that the measures in paragraph ~~40~~39 shall constitute good and sufficient service and notice of this Order on all Persons who may be entitled to receive notice thereof or who may have an interest in these proceedings, and no other form of notice or service need be made on such Persons and no other document or material need be served on such Persons in respect of these proceedings.

GENERAL

42. ~~38.~~ **THIS COURT ORDERS** that notwithstanding any other provision of this Order, the Applicant and the Monitor shall each remain entitled to seek advice, directions or assistance from the Court in respect of any matters arising from or in relation to the matters set out herein.

43. ~~39.~~ **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all persons against whom it may be enforceable.

44. ~~40.~~ **THIS COURT ORDERS** that this Order is effective from the date that it is made, and is enforceable without any need for entry and filing.

45. ~~41.~~ **THIS COURT ORDERS** that the Applicant and the Monitor shall be at liberty and are 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.

46. ~~42.~~ **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court of any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada) and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province or territory of Canada and any court or any judicial, regulatory or administrative body of the United States of America, and of any other nation or state, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

_____

SCHEDULE "A"

FORM OF MONITOR'S DISTRIBUTION CERTIFICATE

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

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 PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO GROWTHWORKS CANADIAN FUND LTD.

MONITOR'S DISTRIBUTION CERTIFICATE

WHEREAS pursuant to the Order of this Court dated October 1, 2013, as amended and restated on October 29, 2013, FTI Consulting Canada Inc. was appointed as the monitor (the "**Monitor**") of the Applicant;

AND WHEREAS pursuant to the Order of this Court dated ~~January~~December 1~~9~~8, 202~~3~~4 (the "~~**Distribution, Termination and**~~**Amended and Restated Discharge and Dissolution Order**"), this Court authorized the Applicant or its transfer agent or other third party appointed by the Applicant, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Applicant, to make one or more Distributions from Available Cash to Eligible Shareholders;

AND WHEREAS paragraph ~~9~~9 of the ~~Distribution, Termination and~~Amended and Restated Discharge and Dissolution Order requires the Monitor, on each Distribution Date, to serve on the Service List and post on the Monitor's Website a certificate certifying that a Distribution has been made and specifying the aggregate amount of the Distribution and the amount of the Distribution made on account of each Class "A" share held by an Eligible Shareholder;

AND WHEREAS a Distribution has been made;

AND WHEREAS all capitalized terms used, but not defined, herein shall have the meanings given to them in the ~~Distribution, Termination and~~Amended and Restated Discharge and Dissolution Order.

THE MONITOR HEREBY CERTIFIES that:

1. a Distribution was made on _____, which is a Distribution Date for the purposes of the ~~Distribution, Termination and~~Amended and Restated Discharge and Dissolution Order;

2. the aggregate amount of the Distribution to Class A Eligible Shareholders was $_____; and

3. the amount of the Distribution made on account of each Class "A" share held by a Class A Eligible Shareholder was $_____.

FTI Consulting Canada Inc., solely in its capacity as court appointed monitor of the Applicant, and not in its personal capacity or in any other capacity

Per: _____

Name:

Title:

SCHEDULE "B"

FORM OF MONITOR'S CCAA COMPLETION CERTIFICATE

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

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 PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO GROWTHWORKS CANADIAN FUND LTD.

MONITOR'S CCAA COMPLETION CERTIFICATE

WHEREAS pursuant to the Order of this Court dated October 1, 2013, as amended and restated on October 29, 2013, FTI Consulting Canada Inc. was appointed as the monitor (the "**Monitor**") of the Applicant;

AND WHEREAS pursuant to the Order of this Court dated ~~January~~December 1~~9~~8, 202~~3~~4 (the "~~**Distribution, Termination and**~~**Amended and Restated Discharge and Dissolution Order**"), this Court authorized the Applicant to cease taking any further steps to liquidate its investment portfolio if the Applicant, in consultation with Crimson Capital (for so long as Crimson Capital continues to serve as an investment advisor to the Applicant) and the Monitor, determined that it was no longer appropriate to continue those efforts considering the proceeds likely to be realized and the cost of such efforts;

AND WHEREAS the Monitor is satisfied that the Applicant has taken appropriate steps to effect an orderly liquidation of its investment portfolio;

AND WHEREAS pursuant to the ~~Distribution, Termination and~~Amended and Restated Discharge and Dissolution Order, this Court authorized the Applicant or its transfer agent or other

third party appointed by the Applicant, with oversight of and assistance from the Monitor, or the Monitor, for and on behalf of the Applicant, to make one or more Distributions;

AND WHEREAS one or more Distributions have been made in accordance with the ~~Distribution, Termination and~~Amended and Restated Discharge and Dissolution Order;

AND WHEREAS the Applicant has determined, in consultation with the Monitor, that the costs of making a further Distribution are likely to exceed the Available Cash;

AND WHEREAS paragraph ~~22~~22 of the ~~Distribution, Termination and~~Amended and Restated Discharge and Dissolution Order requires that, upon the completion of all matters to be attended to in connection with the CCAA Proceedings to the satisfaction of the Monitor, the Monitor shall serve on the Service List, post on the Monitor's Website and file with the Court a certificate certifying that all matters to be attended to in connection with the CCAA Proceedings have been, to the satisfaction of the Monitor, attended to;

AND WHEREAS the Monitor is satisfied that all matters to be attended to in connection with the CCAA Proceedings have been attended to;

AND WHEREAS all capitalized terms used, but not defined, herein shall have the meanings given to them in the ~~Distribution, Termination and~~Amended and Restated Discharge and Dissolution Order.

THE MONITOR HEREBY CERTIFIES that:

1. All matters to be attended to in connection with the CCAA Proceedings have been attended to;

2. Upon the filing of this Monitor's CCAA Completion Certificate:

    a. the CCAA Proceedings shall be terminated;

b. the Applicant shall be dissolved without any further act or formality, including any approval, consent or authorization of any shareholder or other security holder of the Applicant or any Governmental Authority;

c. FTI Consulting Canada Inc. shall be discharged and released from its duties, obligations and responsibilities as Monitor of the Applicant and shall be forever released, remised and discharged from any claims against it relating to its activities as Monitor of the Applicant;

d. the releases and injunctions provided for in the ~~Distribution, Termination and~~Amended and Restated Discharge and Dissolution Order shall become effective; and

e. the Administration Charge and Directors' Charge shall be terminated, released and discharged;

3. This Certificate is delivered by the Monitor on _____ at _____ which is the CCAA Termination Time for the purposes of the ~~Distribution, Termination and~~Amended and Restated Discharge and Dissolution Order.

FTI Consulting Canada Inc., solely in its capacity as court appointed monitor of the Applicant, and not in its personal capacity or in any other capacity

Per: _____

Name:

_____

Title:

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-13-10279-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

~~DISTRIBUTION,~~
~~TERMINATION~~AMENDED AND RESTATED DISCHARGE AND DISSOLUTION ORDER

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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

MOTION RECORD

(Returnable December 18, 2024)

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MTDOCS 52914452