

**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.**

MOTION RECORD OF THE MONITOR
(returnable March 4, 2025)

February 28, 2025

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TO: THE SERVICE LIST

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS*
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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
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**IN THE MATTER OF THE *COMPANIES' CREDITORS*
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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
(IAS Access Order)
(Returnable March 4, 2025)**

FTI Consulting Canada Inc., in its capacity as Court-appointed monitor of GrowthWorks Canadian Fund Ltd. (the “**Applicant**” or the “**Fund**”) pursuant to an Order dated October 1, 2013 (as amended and restated or modified from time to time, the “**Initial Order**”), will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) on March 4, 2025 at 10:00 a.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 order, among other things:
 - (a) abridging the time for service of the Monitor’s Motion Record, validating service, and dispensing with further service and notice thereof;

(b) compelling Investment Administration Solution Inc. (“**IAS**”) to turn over the Shareholder Register Information (as defined below) and/or to provide full and complete access to it, to the Monitor and the Fund; and,

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

THE GROUNDS FOR THE MOTION ARE:

2. 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.

3. The Fund has been subject to *Companies’ Creditors Arrangement Act* (“**CCAA**”) protection since October 1, 2013, when the Initial Order was issued (the “**CCAA Proceedings**”).

4. The purpose of the CCAA Proceeding has been to allow for an orderly realization of the Fund’s interests in private companies. Since the investments comprising the portfolio held by the Fund were largely illiquid, it has taken significant time to allow the Fund to identify and capitalize on realization opportunities for the benefit of its stakeholders.

5. Since January 6, 2015, IAS has provided shareholder administration services to the Fund pursuant to an Investment Administration Services Agreement and related Addendum (the “**IAS Agreement**”).

6. In order to provide the shareholder administration services, IAS was provided with information relating to the Fund’s shareholders (the “**Share Register**”) from the former manager of the Fund. In accordance with the IAS Agreement, IAS has received payment from the Fund pursuant to the IAS Agreement for 10 years for services relating to updating and maintaining the Fund’s Share Register.

7. In January 2023, after addressing litigation against the Fund and working diligently with its investment advisor to pursue realizations on the remaining investment portfolio, the Fund obtained a Distribution, Termination and Discharge Order, which among other things, authorized one or more distributions to holders of Class “A” and Class “B” shares of the Fund and extended the CCAA stay of proceedings to December 31, 2024.

8. In December 2024, the Monitor reported that while it had intended to have all realization steps, a final distribution and dissolution completed prior to the December 31, 2024 stay expiry, more time was required before making a distribution to shareholders since the Fund had been addressing a small number of issues that had arisen.

9. In a motion returnable on December 18, 2024, the Fund, among other things, sought approval of a Wind-Up Services Agreement with IAS in order to engage IAS to provide shareholder administration services to assist with the wind-up (the “**IAS Wind-up Agreement**”). The proposed IAS Wind-up Agreement relates to IAS providing certain services to complete the final distribution and wind-up of the Fund (the “**Wind-up Work**”), which is in addition to the services provided by IAS under the existing IAS Agreement.

10. At the time of the motion, negotiations in respect of the IAS Wind-up Agreement were not yet complete and the Fund indicated at that time that the Monitor, Fund and IAS continued to progress toward the final form of that agreement.

11. On December 18, 2024, the Court granted the Amended Distribution and Discharge Order (the “**ADDO**”), that among other things, approved the IAS Wind-up Agreement in the then-existing form, with any such changes as the Monitor may approve in writing, and extended the stay of proceedings to the CCAA Termination Time (as defined in the ADDO).

12. The Fund advised the Court that it intended to make a distribution to shareholders on or about March 31, 2025, subject to the remaining steps.

13. Unfortunately, negotiations with IAS have not progressed and the IAS Windup Agreement was never executed by the parties

IAS Price Increases and Failure to Produce Fund Property

14. The Monitor understands that the Fund had been continuing to negotiate with IAS with respect to the IAS Wind-up Agreement. IAS had provided a quote for the Wind-up Work. The Fund was of the view that the fees quoted by IAS for the Wind-up Work were at the high end of reasonable. However, in order to proceed to make a prompt distribution to the shareholders, the Fund accepted the quote. At this stage, the Fund was of the view that costs and payment terms were agreed between IAS and the Fund in relation to the Wind-up Work.

15. The Monitor and the Fund then asked for the terms to be set out in a more formal agreement, however IAS sought to impose additional fees beyond the previously provided quote, including seeking payment from the Fund to simply review the draft agreement.

16. IAS was advised that the only change to the terms of the Wind-up Work from the work IAS previously quoted on was to provide simple reporting requirements, specific deadlines to IAS and monetary consequences for failing to meet such deadlines. The addition of such deadlines was added at the request of the Monitor given that there had been significant delays by IAS in the past and given that there is a desire to wind-up the Fund promptly with minimal costs. In the view of the Fund, the additional changes requested by the Fund were not material and did not justify an increase in the costs of the proposed services.

17. As a result of the price increase, counsel to the Fund sought quotes from alternative service providers to provide the Wind-up Work and asked IAS to turn-over the updated Share

Register and other Fund information in the possession of IAS in a readable format (the **“Shareholder Register Information”**), such that alternate service providers could perform the Wind-up Work to effect the Court-approved distribution to shareholders.

18. IAS has refused produce the Shareholder Register Information on the basis that the IAS system into which the Shareholder Register Information was inputted is proprietary and has also sought additional costs to produce the Shareholder Register Information.

19. Counsel to the Fund has made it clear that it is not seeking any proprietary information and has provided a limited list of “data fields” comprising of information of shareholders (such as shareholder first name, last name, address and shareholdings) that are required by the Fund to complete the distribution.

20. The Fund is of the view that the requested Shareholder Register Information is Property of the Fund, as defined in the CCAA Initial Order, and further, that it is “Confidential Information” of the Fund, as defined in the IAS Agreement, which is exclusively owned by the Fund and must be returned to the Fund on termination of that agreement.

21. Pursuant to the Initial Order, the Monitor has the right to full and complete access to Property of the Fund in the possession of third parties such as IAS.

22. The Shareholder Register Information is necessary for the Fund to complete the Court-approved distribution to shareholders, which the Fund is seeking to complete prior to March 31, 2025. In light of IAS’ refusal to provide the Fund with its Share Register, this date is likely to be unachievable.

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

- (a) Thirty-Second Report of the Monitor; and
- (b) Such further and other materials as counsel may advise and this Honourable Court may permit.

February 18, 2025

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GrowthWorks Canadian Fund Ltd.

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.

7

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

**NOTICE OF MOTION
(IAS Access Order)
(Returnable March 4, 2025)**

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

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

B E T W E E N :

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

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

**THIRTY-SECOND REPORT OF
THE MONITOR**

February 27, 2025

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

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

B E T W E E N :

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

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

**THIRTY-SECOND REPORT OF
THE MONITOR**

1. On October 1, 2013, GrowthWorks Canadian Fund Ltd. (the "**Fund**") made an application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the "**CCAA**") and an initial order (the "**Initial Order**", a copy of which, as amended and restated, is attached hereto as **Appendix "A"**) was granted by the Ontario Superior Court of Justice (Commercial List) (the "**Court**") (the "**CCAA Proceedings**"). The Initial Order appointed FTI Consulting Canada Inc., as monitor of the Fund (the "**Monitor**")
2. The Initial Order, among other things, granted a stay of proceedings against the Fund, which stay of proceedings has been extended multiple times over the course of these proceedings.

3. On December 18, 2024, the Court granted an Amended and Restated Dissolution and Discharge Order (the “**ARDDO**”), that, among other things, authorized a distribution to the Class “A” Shareholders (as defined below) and the sole holder of Class “B” shares and approved the dissolution of the Fund and termination of these CCAA Proceedings on the date that the Monitor files a certificate certifying the completion of these CCAA Proceedings (the “**CCAA Termination Date**”).

4. In addition to the above, the ARDDO extended the stay of proceedings up to and including the CCAA Termination Time (the “**Stay of Proceedings**”).

PURPOSE OF THIS REPORT

5. This Thirty-Second Report (the “**32nd Report**”) of the Monitor is being filed in support of the motion of the Monitor to compel The Investment Administration Solution Inc. (“**IAS**”) to provide the Shareholder Registry Information (the “**Shareholder Register**”) in accordance with the terms of the Initial Order.

TERMS OF REFERENCE

6. In preparing this report, the Monitor has relied upon unaudited financial information, other information available to the Monitor, and where appropriate, the Fund’s books and records and discussions with various parties, including the board of directors of the Fund (the “**Board**”) and the Fund’s investment advisors and other advisors.

7. Future oriented financial information reported or relied on in preparing this 32nd Report is based on the Board’s assumptions regarding future events; actual results may vary from the cash flow forecast, and such variations may be material.

8. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

BACKGROUND

9. The Fund was formed in 1988 as a labour sponsored venture capital fund designed to hold and invest in small and medium-sized Canadian businesses (collectively, the **“Portfolio”**).

10. The Fund has three classes of shares, class “A” shares, class “B” shares and class “C” shares. The Fund’s class “A” shareholders are principally comprised of retail investors (the **“Class “A” Shareholders”**). The class “B” shares are held by the Canadian Federation of Labour which was the Fund’s labour sponsor. The class “C” shares are held by GrowthWorks WV Management Ltd., the former manager of the Fund (the **“Former Manager”**).

11. To generate value for the Class “A” Shareholders, the Fund used proceeds from the sale of class “A” shares to purchase investments or make follow-on investments in the Portfolio. At the appropriate time, the Fund disposed of Portfolio investments at a profit, thereby providing its shareholders with a return on their investment.

12. The Fund commenced these CCAA Proceedings with the objective of exploring opportunities for a refinancing or other strategic transaction involving the Fund and to resolve material litigation claims filed against the Fund, including by the Former Manager. As no sale or investment transaction was identified, the Fund concentrated its efforts on the orderly divestiture of the Portfolio at appropriate value maximizing times.

13. The length of these CCAA Proceedings has been longer than usual as the Portfolio was comprised mostly of illiquid investments. The lengthy proceedings allowed the Fund to wait for appropriate realization opportunities for what were otherwise illiquid investments, thereby maximizing value for all stakeholders.

14. In January 2023, the Fund, in consultation with the Monitor, determined to commence a dissolution process to allow for the remaining investments in the Portfolio to be realized, if possible, and to make distributions to shareholders.

15. As noted in the 31st Report (as defined below), various issues arose in 2024 in respect of the process of dissolving the Fund, including: (i) delay in obtaining the consent of Manitoba Finance to complete the wind-up; (ii) the Canada Post strike preventing the mailing of cheques to the Fund's Class "A" Shareholders; (iii) delay in obtaining the consent of the Canada Revenue Agency with respect to the wind-up of the Fund; and (iv) possession of outdated registration information with respect to the details of the Class "A" Shareholders.

16. Given the above issues, the Fund in December 2024, sought the ARDDO which, *inter alia*, extended the Stay of Proceedings to the CCAA Termination Date and approved the Fund entering into a Wind-Up Services Agreement (the "**Wind-Up Agreement**") pursuant to which IAS would provide shareholder administration services to facilitate the wind-up. At this time, the Monitor advised the Court that it anticipated the Fund being able to make distributions to Shareholders on or about March 31, 2025 and that the CCAA Termination Time would occur on or about September 2025.

17. A detailed summary of the activities of the Fund during the CCAA Proceedings is contained in the Thirty-First Report of the Monitor dated December 16, 2024 (the "**31st Report**"), a copy of which is attached without schedules as **Appendix "B"**.

THE INVESTMENT ADMINISTRATION SERVICES WIND-UP AGREEMENT

18. The Monitor, the Fund and IAS first entered into an Investment Administration Services Agreement dated January 5, 2015, as amended on January 6, 2015 (together, the "**IAS**

Agreement”), pursuant to which IAS agreed to provide shareholder administration services to the Fund. A copy of the IAS Agreement is attached hereto as **Appendix C**”.

19. As mentioned above, on December 18, 2024, the Fund sought approval of the Wind-up Agreement. The proposed agreement contemplated IAS providing certain services to complete the final distribution and wind-up of the Fund (the “**Wind-up Work**”), which was in addition to the services being provided by IAS under the existing IAS Agreement. At the time of the December motion, negotiations in respect of the IAS Wind-up Agreement were not yet complete, and the Fund indicated that the Monitor, the Fund and IAS continued to progress toward a final form of the Wind-Up Agreement.

20. The Monitor understands that in December 2024 IAS had provided a quote to the Fund for the Wind-up Work, which the Fund had accepted on the basis of IAS’ familiarity with the Fund and the tasks comprising the Wind-up Work.

21. Following the December motion, and while negotiating the Wind-Up Agreement, IAS was invited to comment on proposed service levels, response times and other performance levels set out in the draft agreement but did not provide any such comments, instead IAS sought to impose additional fees beyond the previously provided quote just to review the proposed performance standards.

22. Over the course of January 2025, IAS provided piecemeal comments on the proposed performance standards and suggested further price increases would be payable to fulfill reporting obligations. The price increases sought by IAS are not acceptable to the Fund or the Monitor. Accordingly, the Fund has sought quotes from alternative service providers to conduct the Wind-up Work and asked IAS to turnover the updated Shareholder Register and other Fund information in the possession of IAS in a readable format, such that alternate service

providers may perform the Wind-up Work to effect the Court-approved distribution to shareholders.

23. IAS has refused to produce the Shareholder Register and claims that the IAS system carrying the Shareholder Register is proprietary and has also sought additional costs to produce the Shareholder Register.

24. The Monitor understands that counsel to the Fund has made it clear that it is not seeking any proprietary information from IAS and has provided a limited list of “data fields” of the Shareholder Register, comprising of shareholder information (such as shareholder first name, last name, address and shareholdings) that are required by the Fund to complete the distribution.

25. The Shareholder Register is necessary for the Fund to complete the Court-approved distribution to shareholders, which the Fund is seeking to complete prior to March 31, 2025, pursuant to the ARDDO. In light of IAS’ refusal to provide the Fund with its Shareholder Register, a distribution by this date is unlikely to be achieved.

DUTY TO PROVIDE ACCESS TO PROPERTY

26. Pursuant to paragraph 5 of the Initial Order, the Fund shall remain in possession and control of its properties of every kind, wherever they may be.

27. Pursuant to paragraph 27(f) of the Initial Order, the Monitor is entitled to full and complete access to the Property of the Fund (as defined therein), including but not limited to: records, data, data in electronic form and any other available information. The Shareholder Register is Property of the Fund.

28. Pursuant to the IAS Agreement, the Fund has paid IAS annual fees to provide certain services, including updating the Shareholder Register to reflect changes in shareholder information and responding to inquiries posed by shareholders from time to time.

29. Paragraph 17 of the Initial Order also states that no person shall interfere with any right held by the Fund relevant to the Property except with written consent of the Fund, the Monitor or leave of the Court.

30. The Shareholder Register is Property of the Fund and constitutes as “Confidential Information” of the Fund, as defined in the IAS Agreement, which is exclusively owned by the Fund and must be returned to the Fund.

31. Pursuant to sections 8(a) and 12(d) of the IAS Agreement, IAS agreed that all records that it maintains for the Fund are the Property of the Fund and shall be surrendered promptly to the Fund upon request *and* upon termination of this Agreement.

*8(a) Client acknowledges and agrees that the Confidential Information of IAS and any and all Confidential Information and/or materials and/or information used by IAS to deliver the Services, specifically including, but not limited to, technology, know-how, intellectual property, and software is, shall remain, and shall be the exclusive property of IAS. **Likewise, IAS acknowledges and agrees that the Confidential Information of the Client is, shall remain and shall be the exclusive property of the Client.***

*12(d) **Upon termination of this Agreement each party shall immediately, at the other's election either return or destroy and provide certification as to destruction (certified by an officer of the relevant party, the form and substance of such certification to be satisfactory to the other and its legal counsel, acting reasonably), all Confidential Information and related documentation in the other's possession or***

control, or in the possession or control of any of the other's employees and/or contractors.

32. The Fund is also required to retain copies of these records in compliance with section 19(1) of the *Securities Act*, R.S.O. 1990, c. S.5 (the "**Securities Act**") and subject to any confidentiality obligations under the IAS Agreement.

33. Although the Wind-Up Agreement was never executed, IAS is bound by the provisions of the Initial Order, the IAS Agreement and of the *Securities Act* and any deviation from those provisions constitutes as a breach of duty.

ATTEMPTS TO OBTAIN THE PROPERTY

34. Counsel to the Fund has made several requests to obtain the Fund's Property evidenced by the email exchanges between counsel and IAS between January 23, 2025 and February 4, 2025 attached hereto as **Appendix D**. Furthermore, counsel to the Monitor has also corresponded with counsel to IAS on February 11, 2025 requesting delivery of the Shareholder Register, failing which the Monitor would schedule a motion to compel IAS to turn over the Fund's Shareholder Register. A copy of this letter is attached hereto as **Appendix "E"**.

35. A representative from IAS responded to the Monitor's letter on February 12, 2025 noting that, *inter alia*, there were unpaid amounts owing by the Fund to IAS and that "there was and still is confusion as to what is "a copy of the current Fund shareholder register and all related Fund shareholder and other information in a readable and otherwise fully accessible and readily useable format (collectively, the "Fund Register") by January 31, 2025. In a nutshell, the requestor must provide the specifications (the "Specs") of the output deliverable of the Fund Register such that the requestee may comply with accordingly." A copy of this correspondence is attached hereto as **Appendix "F"**. The Fund on many occasions has

provided to IAS the relevant specifications or fields of information that are needed by them [to produce the requested Fund Register].

36. On February 18, 2025 counsel to the Monitor responded to the February 12, 2025 email, noting that the Monitor would look into any unpaid amounts owing to IAS. Upon enquiry, the Monitor understands that the unpaid amounts relate to work to be performed (and which has not yet occurred) and also to work performed but not yet completed by IAS. A copy of the February 18, 2025 correspondence is attached as **Appendix “G”**.

37. Discussions between the Fund, the Monitor and IAS have not been productive. Therefore, in order to ensure a timely distribution to shareholders, the Monitor requires that IAS provide the updated Shareholder Register, which register constitutes Property of the Fund.

CONCLUSION

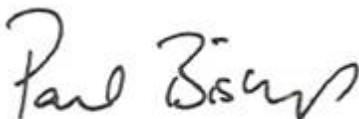
38. For the reasons stated above, the Monitor is asking the Court to compel IAS to promptly provide the Share Register in a readable format to the Fund and the Monitor.

The Monitor respectfully submits to the Court this Thirty-Second Report.

Dated this 27 day of February, 2025

FTI Consulting Canada Inc.

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

A handwritten signature in black ink, appearing to read "Paul Bishop". The signature is fluid and cursive, with the first name "Paul" and last name "Bishop" clearly distinguishable.

Paul Bishop
Senior Managing Director

Court File No.: »

CV-13-10279-
DCL

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

THE HONOURABLE MR.	)	TUESDAY, THE 1 ST
)	
JUSTICE NEWBOULD	)	DAY OF OCTOBER, 2013

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



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

INITIAL ORDER

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

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

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

SERVICE

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

APPLICATION

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

PLAN OF ARRANGEMENT

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

POSSESSION OF PROPERTY AND OPERATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

RESTRUCTURING

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

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

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

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

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

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

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

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

NO EXERCISE OF RIGHTS OR REMEDIES

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

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

NO INTERFERENCE WITH RIGHTS

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

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

CONTINUATION OF SERVICES

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

NON-DEROGATION OF RIGHTS

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

this Order
is without prejudice
to any arguments
of the Fund, - 25

CRITICAL SUPPLIERS

20. THIS COURT ORDERS AND DECLARES that Growthworks WV Management Ltd. (the "**Manager**"), GrowthWorks Capital Ltd. ("**GWC**"), and each ~~Person engaged or contracted by the Manager and/or GWC (not including employees of the Manager or GWC) in connection with providing services to the Applicant pursuant to the Management Agreement described in the Ross Affidavit (the "Management Agreement") is a critical supplier to the Applicant as contemplated by Section 11.4 of the CCAA (each, a "Critical Supplier")~~ 25

21. THIS COURT ORDERS that each Critical Supplier shall be entitled to the benefit of and is hereby granted a charge (together, the "**Critical Suppliers' Charge**") on the Property of the Applicant in an amount equal to the lesser of (a) the value of the goods and services supplied by such Critical Supplier and received by the Applicant after the date of this Order less all amounts paid to such Critical Supplier in respect of such goods and services; (b) the amount to which the Manager is entitled to be paid under section 8.6(b) of the Management Agreement; and (c) \$50,000. The Critical Supplier Charge shall have the priority set out in paragraphs 36 and 38 herein. 25

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court. 25

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

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

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

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

APPOINTMENT OF MONITOR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

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

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

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

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

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

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

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

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

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

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

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

SERVICE AND NOTICE

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

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

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

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

GENERAL

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

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

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

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

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

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



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



OCT 01 2013

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

Court File No:

CV-13-10279-0002

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

Proceeding commenced at Toronto

INITIAL ORDER

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Lawyers for the Applicant
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Court File No.: CV-13-10279-00CL

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

B E T W E E N :

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

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

**THIRTY-FIRST REPORT OF
FTI CONSULTING CANADA INC.,
IN ITS CAPACITY AS MONITOR**

December 16, 2024

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

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

B E T W E E N :

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

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

**THIRTY-FIRST REPORT OF
FTI CONSULTING CANADA INC.,
IN ITS CAPACITY AS MONITOR**

1. On October 1, 2013, GrowthWorks Canadian Fund Ltd. (the “**Fund**”) made an application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the “**CCAA**”) and an initial order (the “**Initial Order**”, a copy of which, as amended and restated, is attached hereto as **Appendix “A”**) was granted by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”).

2. The Initial Order, among other things, granted a stay of proceedings against the Fund, which stay of proceedings has been extended multiple times over the course of these proceedings. The current stay extension is set to expire on December 31, 2024 (the “**Stay of Proceedings**”). The Initial Order also appointed FTI Consulting Canada Inc., as monitor of the Fund (the “**Monitor**”).

3. The proceedings commenced by the Fund under the CCAA will be referred to herein as the “**CCAA Proceedings**”.

PURPOSE OF THIS REPORT

4. The purpose of this Thirty-First Report (the “**31st Report**”) of the Monitor is to provide an update to the Court and to provide the Monitor’s comments and recommendation, as applicable with respect to, *inter alia*,

- (a) the status of the Fund’s implementation of the orderly liquidation and completion of the CCAA Proceedings following the issuance of the Distribution, Termination and Discharge Order of Justice Penny dated January 19, 2023 (the “**Distribution and Discharge Order**”);
- (b) the Fund’s request to extend the Stay of Proceedings up to and including the date that the Monitor files the CCAA Completion Certificate (as defined below) with the Court (the “**CCAA Termination Time**”);
- (c) the Fund’s request to amend and restate the Distribution and Discharge Order to, *inter alia*:
 - (i) approve certain amendments to paragraph 21 of the Distribution and Discharge Order to approve and authorize the dissolution of the Fund pursuant to the CCAA and section 217 of the *Canada Business Corporations Act*;
 - (ii) expand the scope of the releases contained in the Dissolution and Discharge Order such that the Fund, its directors and officers and the

Monitor are released in respect to decisions of the Fund with the consent of the Monitor to abandon certain remaining unrealized investments;

- (iii) approve a minimum threshold distribution amount of \$5 to Class “A” shareholders (as defined below); and
- (iv) approve and authorize the Applicant to enter into the Investment Advisor Agreement (“**IAA**”) Agreement and an extension of the Second Amended and Restated IAA with the Fund’s Investment Advisor (as defined below) for the period up to and including the CCAA Termination Time.

TERMS OF REFERENCE

5. In preparing this report, the Monitor has relied upon unaudited financial information, other information available to the Monitor, where appropriate the Fund’s books and records and discussions with various parties including the board of directors of the Fund (the “**Board**”) and the Fund’s investment and other advisors.

6. Future oriented financial information reported or relied on in preparing this report is based on the Board’s assumptions regarding future events; actual results may vary from the cash flow forecast (the “**Forecast**”) and such variations may be material.

7. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

8. Capitalized terms used, but not defined, herein shall have the meanings ascribed to them in the Affidavit of C. Ian Ross sworn December 11, 2024 (the “**Ross Affidavit**”).

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

SUMMARY OF THESE CCAA PROCEEDINGS

Background

10. The Fund was formed in 1988 as a labour sponsored venture capital fund designed to hold and invest in small and medium-sized Canadian businesses (collectively the **"Portfolio"**). The Fund typically made venture investments in early to mid-stage private companies (collectively, the **"Portfolio Companies"**) and a significant portion of the Portfolio comprised of minority equity holdings in the Portfolio Companies.

11. The Fund has three classes of shares, class "A" shares, class "B" shares and class "C" shares. The Fund's class "A" shareholders are principally comprised of retail investors (the **"Class "A" Shareholders"**). The class "B" shares are held by the Canadian Federation of Labour which was the Fund's labour sponsor (the **"Class B Shareholder"**). The class "C" shares are held by GrowthWorks WV Management Ltd. (the **"Class "C" Shareholder"**) as the former manager of the Fund (the **"Former Manager"**).

12. To generate value for the Class "A" Shareholders, the Fund used proceeds from the sale of class "A" shares to purchase investments or make follow-on investments in the Portfolio

Companies. At the appropriate time, the Fund disposed of Portfolio investments at a profit, thereby providing its shareholders with a return on their investment.

CCAA Proceedings

13. As a result of liquidity restraints and demands for payment by its sole senior secured lender, Roseway Capital S.a.r.l., on October 1, 2013, the Fund commenced these CCAA Proceedings with the objective of exploring opportunities for a refinancing or other strategic transaction involving the Fund and to resolve material litigation claims filed against the Fund, including by the Former Manager.

14. Following the conclusion of a sale and investment solicitation, which process did not result in the selection of a successful bid, the Fund instead focused its efforts over the past ten years on facilitating an orderly divestiture of the Portfolio for the benefit of all stakeholders, including secured and unsecured creditors as well as equity holders.

15. As the Portfolio was comprised mostly of illiquid investments, the length of these CCAA Proceedings has been longer than usual. The lengthy proceedings allowed the Fund to wait for appropriate realization opportunities for what were otherwise illiquid investments, thereby maximizing value for all stakeholders. To date, approximately CDN\$59 million has been generated in these proceeding through well-timed divestments in the Portfolio Companies, resulting in all secured and unsecured creditors being paid out in full and remaining proceeds from realization of the Portfolio being available for equity holders. Approximately \$4.7 million is available for distribution to Class “A” Shareholders (the “**Available Funds**”), net of the estimated cost of making such distribution, and the fees of the Fund and the Monitor until the CCAA Termination Time. The Monitor notes that the Available Funds is an estimate only, remains subject to change, and does not consider the potential realization of the Remaining Investment (as defined and described below).

16. As of January 2023, the Fund had divested its interests in all but 13 remaining Portfolio Companies. At this time, the Monitor was advised by Crimson Capital Inc., the Fund's investment advisor ("**Crimson Capital**" or the "**Investment Advisor**"), that the Remaining Investment could generate returns of approximately \$18 million in 2023 and 2024. Accordingly, the Fund with the support of the Monitor determined that it was appropriate to commence a dissolution process for the Fund, which was to conclude no later than December 31, 2024. This timeframe would allow for any remaining investments to be realized, if possible, and to begin a distribution to shareholders in equitable manner in accordance with the Fund's articles.

17. On January 19, 2023, the Fund obtained from the Court the Distribution and Discharge Order, *inter alia*, authorizing distributions to be made to Class "A" Shareholders and Class "B" Shareholders of the Applicant, and extending the Stay of Proceedings to the earlier of December 31, 2024; and the CCAA Termination Time. A copy of the Distribution and Discharge Order is attached hereto as **Appendix "B"**.

18. A detailed summary of the activities of the Fund during the CCAA Proceedings is contained in the Thirtieth Report of the Monitor dated December 22, 2022 (the "**Thirtieth Report**"), a copy of which is attached without schedules as **Appendix "C"**.

STATUS OF LIQUIDATION AND DISTRIBUTIONS

19. Pursuant to the Distribution and Discharge Order, the Fund, in consultation with the Monitor and Crimson Capital, commenced a dissolution process to allow for the remaining investments to be realized, if possible, and to make distributions to shareholders.

20. As noted in the Thirtieth Report, prior to making distributions to its Class "A" and Class "C" Shareholders, the Fund must make distributions to its Class "B" Shareholder. The Fund was authorized under the Distribution and Discharge Order to make distributions to the Class

“B” Shareholder. The Class “B” Shareholder is entitled to receive an amount equal to the purchase price it paid for its class “B” shares, which the Monitor understands is a nominal amount. The Monitor was advised by the Fund that the Class “B” Shareholder no longer exists and that all of the remaining cash of the Class “B” Shareholder was donated to various charities across Canada. The Fund is in the process of trying to identify whether there is a representative of the Class “B” Shareholder with the requisite corporate authority to instruct the Fund as to the Class “B” Shareholder’s distribution entitlement from the Fund.

21. In addition to the above, the Monitor understands that various issues have arisen in the process dissolving the Fund including: (i) delay in obtaining the consent of Manitoba Finance to complete the wind-up; (ii) the Canada Post strike preventing the mailing of cheques to the Fund’s Class “A” Shareholders; (iii) delay in obtaining the consent of the Canada Revenue Agency (the “**CRA**”) with respect to the wind-up of the Fund; (iv) concerns by Corporations Canada as to the current language of the Distribution and Discharge Order; and (v) possession of outdated registration information with respect to the details of a Class “A” Shareholder. However, notwithstanding the above delays, the Fund was able to realize approximately \$2 million in additional value since the granting of the Distribution and Discharge Order.

22. To deal with the issues noted above, the Fund with the support of the Monitor, is seeking an Order amending the Discharge and Distribution Order, to *inter alia*, extend the Stay of Proceedings to the date on which the Monitor files its certificate certifying the completion of these CCAA Proceedings. Based on discussions with the Fund with respect to the likely time period to obtain the consents necessary to dissolve the Fund and to make distributions to the Class “A” Shareholders, the Monitor anticipates that the Fund will make a distribution to Shareholders on or about March 31, 2025 and the CCAA Termination Time will occur on or before September 2025.

REMAINING INVESTMENTS

23. As noted in the Thirtieth Report, the Fund, with the benefit of advice from its Investment Advisor, concluded that the majority of the remaining investments in the Portfolio have no realistic opportunity to be realized. With respect to any unrealized investments, the Fund intends to surrender its interest in these investments.

24. Notwithstanding the above, the Fund was recently advised by its Investment Advisor that one remaining Portfolio Company (the “**Remaining Investment**”) has begun a sale process which could result in further monies being available for distribution by the Fund. Accordingly, while the Fund completes the dissolution process and obtains the consent of the Manitoba of Finance and the CRA, the Fund (in consultation with the Investment Advisor and the Monitor) intends to continue to review the Remaining Investment and decide upon surrendering its interest at a later date but prior to the CCAA Termination Time given that the newly launched sales process may indicate a near-term potential for realization in respect of this investment.

PROPOSED AMENDED AND RESTATED DISCHARGE AND DISSOLUTION ORDER

25. the Fund is proposing to amend the Distribution and Discharge Order. The proposed order will address various distribution and dissolution issues, including:

- (a) the insertion of language requested by Corporations Canada clarifying that the dissolution is being made both under the provisions of the CCAA but also the Canada Business Corporations Act;

- (b) the approval by the Fund to enter into an agreement with Investment Administration Solution Inc. (“**IAS**”) to assist with the wind-up, including obtaining updated shareholder registration information; and
- (c) the approval of an extension of the term of the IAA with its Investment Advisor. The term of the current agreement is currently set to expire on December 31, 2024. The Fund seeks approval to extend the term of the IAA to a date to be determined no later than the CCAA Termination Time in order to assist the Fund with any remaining investments, including with respect to the investment in the Remaining Investment that is conducting a sale process.

Stay Extension

26. The Fund is seeking an extension of the Stay of Proceedings up to and including the CCAA Termination Time to address the remaining issues described above, complete the investment realization or surrender process, distribute its available cash to shareholders and wind-up its operations and dissolve in accordance with Corporations Canada’s requirements. The Monitor understands that the proposed stay extension will pose no material prejudice to shareholders, and it will minimize process costs.

27. Rather than imposing a defined date, the Fund proposes to extend the stay to the date on which the Monitor files its certificate setting forth the Monitor’s determination of the CCAA Termination Time for the following reasons:

- (a) these CCAA Proceedings are nearing the end but the exact date of a distribution remains subject to final contingencies;
- (b) the Fund wishes to minimize costs in order to maximize distributions;

- (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 as undelivered or are not cashed within six months;
- (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.

28. The last time the Fund was before the Court seeking an extension, Justice Penny concluded that the stay extension is warranted and reasonable, progress is being made and there are relatively little additional costs.

29. The Fund has continued to act in good faith and with due diligence toward completing the orderly liquidation process, addressing various issues regarding final investments and progressing towards a distribution and dissolution progress.

Releases

30. The Fund is proposing to broaden the language of the releases contained in the Distribution and Discharge Order to specifically cover the decision of the Fund, with the consent of the Monitor, to surrender any remaining Portfolio investments irrespective of any future potential realization opportunities or future value that could be obtained. The Fund, upon the advice of the Investment Advisor, has determined that the remaining investments are either of negligible value or that the benefit of any additional time to monetize the remaining

investments does not outweigh the associated costs or speculative nature of the pursuing divestment.

Minimum Distribution Amount

31. The amended Distribution and Discharge Order proposes to set a minimum distribution amount of \$5. Any distributions lower than \$5 shall be forfeited and form the available cash of the Fund.

THE ACTIVITIES OF THE MONITOR

32. Pursuant to paragraphs 35 of the Initial Order, any expenditure or liability properly made or incurred by the Monitor, including the fees of the Monitor and the fees and disbursements of counsel to the Monitor (the “**Monitor’s Counsel**”) were authorized to be paid on a periodic basis subject to any final passing of the accounts. In addition, the Administrative Charge was granted as security for, *inter alia*, the fees and disbursements of the Monitor and the Monitor’s Counsel.

33. Pursuant to paragraph 30 of the Distribution and Discharge Order, the Monitor and its counsel were granted a fee reserve for the period of November 1, 2022 through to completion of the CCAA Proceedings in the amounts of \$355,000 and \$120,000, respectively (excluding HST) (the “**Fee Reserve**”).

34. Since November 1, 2022, the Monitor has incurred fees in the amount of \$110,568.50, disbursements in the amount of \$0 and HST in the amount of \$14,373.92 (“**Monitor Fees**”). The Monitor’s counsel has incurred fees in the amount of \$19,283.00, disbursements in the amount of \$0 and HST in the amount of \$2,443.79 (“**Monitor’s Counsel Fees**”).

35. Pursuant to the Distribution and Discharge Order, the Monitor and its counsel are not required to pass further accounts in these CCAA Proceedings unless otherwise requested by the Fund. At this time, there has been no request of the Fund for the Monitor to pass its accounts and accordingly, the Monitor does not intend to pass its accounts in respect of the period from November 1, 2022 to the CCAA Termination Time.

ACTUAL RECEIPTS AND DISBURSEMENTS OF THE FUND FOR THE PERIOD DECEMBER 6, 2022 TO DECEMBER 16, 2024

36. The Fund's actual net cash flow for the period from December 6, 2022 to December 16, 2024 (the **"Current Period"**) together with an explanation of key variances as compared to the Forecast attached to the Monitor's Thirtieth Report (the **"Prior Forecast"**) is set out below:

GrowthWorks Canadian Fund Ltd.

Forecast v. Actual

Actuals as at December 16, 2024

(CAD in thousands)	Forecast	Actual	Variance
Beginning Cash Balance	5,469	5,469	-
Cash Flow from Operations			
Receipts	14,574	2,378	(12,196)
Fund Legal Fees - General and Transactions	(446)	(366)	80
Fund Legal Fees - Litigation	-	(2)	(2)
D&O Insurance	(9)	(4)	5
Back Office and Administrative	(295)	(107)	188
CEO and Board Fees	(383)	(266)	117
Other Expenses and Contingency	(284)	(197)	87
Realized FX Gain (Loss)	-	219	219
Operating Cash Flows	13,157	1,654	(11,504)
Monitor Fees	(401)	(125)	276
Counsel to the Monitor Fees	(136)	(20)	116
IAA Disbursements	(1,459)	(425)	1,034
Projected Net Cash Flow	11,162	1,084	(10,078)
Ending Cash Balance	16,631	6,553	(10,078)

37. In the Current Period, the IAA made considerable efforts to divest of the Fund's remaining illiquid investments in anticipation of a distribution to Shareholders. The Fund realized approximately \$1.8 million from the investment portfolio and \$600,000 from interest earned.

38. Since the issuance of the Distribution and Discharge Order the IAA has diligently pursued numerous opportunities to monetize the Funds remaining investments. However, due to the nature of the investments the anticipated divestment of certain investments has not been achieved. As a result, there is a positive variance in the disbursements related to disposition of the investments (IAA Disbursements and related legal fees), as these disbursements include provisions for fees payable on investment exits and for legal fees to close these transactions.

39. The positive variance in Fund back office and administrative, CEO and Board fees, Monitor Fees and Monitor's Counsel Fees is due to ongoing efforts to minimize costs in the administration of the estate.

THE FUND'S CASH FLOW FORECAST

40. The Fund has prepared a Forecast for the period from December 17, 2024 to September 30, 2025, representing the anticipated stay extension period up to the CCAA Termination Time. A copy of the Forecast is attached as **Appendix "D"**. The Forecast shows a closing cash balance of approximately \$5.8 million before any shareholder distributions, and due to market uncertainty, does not include an estimated amount the Fund may realize from the divestment of the Remaining Investment. The Forecast is summarized below:

(CAD in thousands)	
	Total
Beginning Cash Balance	6,553
Cash Flow from Operations	
Distribution Funds	(4,747)
Fund Legal Fees - General	(406)
D&O Insurance	(7)
Back Office and Administrative	(630)
CEO and Board Fees	(117)
Fund Records Storage	(127)
Other Expenses and Contingency	(250)
Operating Cash Flows	(6,283)
Monitor Fees	(120)
Counsel to the Monitor Fees	(30)
IAA Disbursements	(120)
Projected Net Cash Flow	(6,553)
Ending Cash Balance	(0)

The Forecast includes the estimated cost of making a distribution and the fees of the Fund and the Monitor until the CCAA Termination Time. The Fund currently stores approximately 2,700 boxes of Fund records in an off-site third-party storage facility. The cost of storing the records contained in these boxes for seven years is approximately \$100,000. The Fund, with the assistance of the Monitor, is investigating ways in which this cost may be reduced through destruction and digitization of the records. To the extent these and any other costs can be reduced further, additional funds may be made available for distribution to shareholders.

CONCLUSION

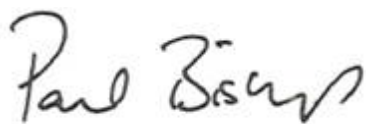
41. For the reasons stated in the 31st Report, the Monitor supports the relief sought by the Fund in connection with the motion of the Fund scheduled for December 18, 2024.

The Monitor respectfully submits to the Court this Thirty-First Report.

Dated this 16th day of December, 2024.

FTI Consulting Canada Inc.

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

A handwritten signature in black ink, appearing to read "Paul Bishop". The signature is written in a cursive, flowing style.

Paul Bishop
Senior Managing Director

INVESTMENT ADMINISTRATION SERVICES AGREEMENT

THIS INVESTMENT ADMINISTRATION SERVICES AGREEMENT is made and entered into this 6th day of January, 2015 (the “Effective Date”) between:

THE INVESTMENT ADMINISTRATION SOLUTION INC.,
an Ontario corporation with its offices located at 330 Bay Street,
Suite 400, Toronto, Ontario M5H 2S8

(hereinafter, “IAS”)

and

GROWTHWORKS CANADIAN FUND LTD.
a Canadian corporation with its offices located at 150 King Street
West, Suite 2020, Toronto, Ontario M5X 1J9.

(hereinafter, “CLIENT”)

RECITALS:

- A. **WHEREAS** IAS is in the business of providing various investment administration services to various businesses in the investment industry;
- B. **AND WHEREAS** CLIENT is a business in the investment industry;
- C. **AND WHEREAS** IAS wishes to provide CLIENT with certain investment administration services and CLIENT wishes to receive from IAS such certain investment administration services, upon the terms and conditions set forth in this written agreement;
- D. **NOW THEREFORE** in consideration of the mutual promises, and representations and warranties contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS

In this Agreement, the following terms will have the following meanings unless the context requires otherwise:

“Agreement” means this Investment Administration Services Agreement, as it may be amended, restated, or supplemented from time-to-time, together with any and all schedules, appendices, and/or exhibits that may be attached to it.

“Confidential Information” means any and all material and/or information of a party (in this definition, the **“Disclosing Party”**) which has or will come into the possession or knowledge of the other party (in this definition, the **“Receiving Party”**) in connection with or as a result of entering into this Agreement, including, but not limited to, data (including, but not limited to, all client lists or other personal, financial or business information), know-how, copyrights, patents, trade-marks, trade secrets, processes, programs, designs, formulas, commissions, diagrams, technology, software (including, but not limited to, object codes and source codes and any written documentation and/or materials supporting such software, and any and all modifications, updates, upgrades or enhancements to such software), reports, diagrams, drawings, or presentations, in oral, written, graphic, electronic, or any other form or medium. The term **“Confidential Information”** does not include the following:

- (a) information that is already within the public domain when it is received by or becomes known to the Receiving Party or which subsequently enters the public domain through no fault of the Receiving Party;
- (b) information that is already known to the Receiving Party at the time of its disclosure by the Disclosing Party and is not the subject of an obligation of confidence of any kind;
- (c) information that is independently developed by the Receiving Party without any use of or reference to or reliance upon the Confidential Information of the Disclosing Party where such independent development can be established by evidence that would be acceptable to a court of competent jurisdiction;
- (d) information that is received by the Receiving Party in good faith without an obligation of confidence of any kind from a third party, who the Receiving Party has no reason to believe was not lawfully in possession of such information free of any obligation of confidence; or
- (e) information that is required to be disclosed pursuant to the final order of a court of competent jurisdiction or pursuant to any rules, regulations or policies of any Canadian regulatory authority or other government agency with jurisdiction in the matter.

“Personal Information” means personally identifiable information about an individual but does not include the name, title, business address or business telephone number of an employee of an organization.

“Services” means the investment administration services referenced in Section 2 of this Agreement, and as set forth and more fully described in the attached Schedule “A” to this Agreement; and

"Set-Up Date" means a date to be mutually agreed upon by the parties to this Agreement upon which IAS will set-up the Services and be in a position to commence delivering the Services to CLIENT, as set forth and specifically described in the attached Schedule "B" to this Agreement.

2. **SERVICES**

IAS shall provide to CLIENT the Services set forth and described in the attached Schedule "A" to this Agreement.

3. **SERVICE PERIOD**

(a) **Service Period**

IAS shall provide CLIENT with the Services for the period of time commencing upon the Set-Up Date and expiring at 11:59:59 p.m. (Toronto time) on the 31st day of December of the third (3rd) successive calendar year following the calendar year of the Set-Up Date (the **"Service Period"**).

(b) **Renewal Period**

Unless either party provides the other party with written notice rejecting a renewal of the Service Period on or before the 1st day of October of the last calendar year of the Service Period, the Service Period shall automatically renew and continue for an additional three (3) year period (the **"Renewal Period"**).

The Renewal Period shall commence at 12:00 a.m. (Toronto time) on the 1st day of January of the calendar year immediately following the last calendar year of the Service Period.

(c) **Renewal of Services at the End of a Renewal Period**

Unless either party provides the other party with written notice rejecting a renewal of the then current Renewal Period on or before the 1st day of October of the last calendar year of the then current Renewal Period, the Renewal Period shall automatically renew and continue for successive three (3) year periods.

The new Renewal Period shall commence upon 12:00 a.m. (Toronto time) on the 1st day of January of the calendar year immediately following the last calendar year of the then current Renewal Period.

4. **SERVICE FEES – SERVICE PERIOD**

As consideration for the Services, CLIENT shall pay to IAS, without deduction, delay or withholding of any kind, various fees for the Services as set forth and more fully described in the attached Schedule "C" to this Agreement (the **"Service Fees"**).

5. **SERVICE FEES – RENEWAL PERIOD**

(a) **Fees**

As consideration for the Services during the Renewal Period, CLIENT shall pay to IAS without deduction, delay or withholding of any kind, various fees for Services during the Renewal subject to modification in accordance with the provisions set forth in Subsection 5(b) of this Agreement (the “**Renewal Period Fees**” or “**RPF**”).

(b) **Renewal Period Fees Modification**

IAS may modify the then current version of Schedule “C”, which sets forth the then current Service Fees and/or Renewal Period Fees, in order to more fully describe and propose modified figures and provisions to the Renewal Period Fees for the upcoming Renewal Period, by providing written notice to CLIENT of the modifications on or before the 1st day of September of the last calendar year of the then current Service Period or Renewal Period, as the case may be (the “**Proposed RPF**”).

Unless CLIENT provides IAS with written notice rejecting the Proposed RPF on or before the 15th day of September of the last calendar year of the then current Service Period or Renewal Period, as the case may be, the Proposed RPF shall apply. If CLIENT provides written notice to IAS rejecting the Proposed RPF within the prescribed time period, the parties shall exercise their best efforts to negotiate in good faith to agree upon mutually acceptable figures and provisions for the Proposed RPF on or before the 1st day of October of the last calendar year of the then current Service Period or Renewal Period. If the parties are unable to agree upon mutually acceptable figures and provisions for the Proposed RPF on or before the 1st day of October, the figures and provisions contained in the Proposed RPF shall apply.

6. **TAXES**

CLIENT shall pay any and all applicable federal, provincial, regional, state, or municipal taxes on the Service Fees and/or Renewal Period Fees and/or any other fees or expenses, at the time of payment of such fees or the instalments of such fees, as the case may be.

7. **REGULATORY COMPLIANCE**

CLIENT is solely responsible for compliance with all applicable laws, statutes, ordinances, decrees, rules, regulations, by-laws, legally enforceable policies, codes or guidelines, judgements, orders, decisions, directives, rulings, awards, standards set forth by regulatory or self-regulatory bodies including stock exchanges and governmental authorities (the “Regulatory Requirements”) in respect of CLIENT'S activities and in respect of any investment fund, investment note or other investment or savings product promoted, managed, sold, distributed or traded by CLIENT (the “Investment Products”). Furthermore, CLIENT is solely responsible for any initial and continuous disclosure

obligations with respect to Investment Products and compliance with disclosure or representations made in any prospectus, offering memorandum, term sheet or similar document concerning the Investment Products (the "Disclosure Obligations"). CLIENT acknowledges and agrees that IAS has no obligation to assist, participate in, or ensure that CLIENT satisfies any of the Regulatory Requirements or Disclosure Obligations.

8. **CONFIDENTIALITY & OWNERSHIP OF CONFIDENTIAL INFORMATION**

(a) **Ownership**

CLIENT acknowledges and agrees that the Confidential Information of IAS and any and all Confidential Information and/or materials and/or information used by IAS to deliver the Services, specifically including, but not limited to, technology, know-how, intellectual property, and software is, shall remain, and shall be the exclusive property of IAS. Likewise, IAS acknowledges and agrees that the Confidential Information of the CLIENT is, shall remain and shall be the exclusive property of the CLIENT.

(b) **Non-Use, Non-Disclosure & Standard of Care**

Each party hereto shall exercise all commercially reasonable efforts to protect the confidentiality of the Confidential Information of the other and shall not use the Confidential Information except as contemplated and in furtherance of the purposes of this Agreement, and shall not disclose any Confidential Information to any third party without the express prior written consent of the other. Notwithstanding the foregoing, each party shall exercise a standard of care to protect the confidentiality of the Confidential Information of the other that is at least equivalent to the standard of care that it exercises to protect its own confidential information. Without limiting the generality of the foregoing, each party shall maintain and protect all Confidential Information of the other in accordance with the provisions of any and all applicable federal or provincial privacy legislation or other legislation that may be in force and effect from time to time.

(c) **Disclosure on "Need-To-Know-Basis"**

Each party may only disclose the Confidential Information of the other to its employees and/or contractors who have a "need-to-know" such Confidential Information in order to perform their duties in furtherance of the purposes of this Agreement, provided that such party exercises all commercially reasonable efforts to ensure that such employees and/or contractors abide by, and comply with, the confidentiality provisions and standards of confidentiality set forth in this Agreement.

9. **DATA PROTECTION**

(a) **IAS' Representations and Warranties:**

Where IAS receives Personal Information from CLIENT and with respect to such Personal Information, IAS represents and warrants that:

- (i) IAS has no reason to believe that data protection legislation applicable to it prevents it from fulfilling its obligations to CLIENT under this Agreement;
- (ii) All Personal Information disclosed by CLIENT to IAS will be used only in the manner and for such purposes that CLIENT has agreed upon;
- (iii) IAS will not disclose Personal Information provided by CLIENT without the consent of CLIENT or the person whose Personal Information is in question;
- (iv) In the event IAS cannot comply with Subsection 9(a)(ii), IAS will promptly inform CLIENT which shall be entitled to suspend the transfer of Personal Information to IAS;
- (v) IAS has implemented appropriate security measures to protect the Personal Information provided by the CLIENT;
- (vi) IAS shall promptly provide notice to CLIENT about:
 - (A) Any request for the disclosure of Personal Information, including requests by law enforcement authorities, without responding to the request unless required by law or judicial order;
 - (B) Any accidental or unauthorized access of Personal Information;
- (vii) IAS will identify a contact authorized to respond to CLIENT enquiries concerning the Personal Information provided by CLIENT and promptly address all enquiries from CLIENT with respect to IAS' use of that Personal Information; and
- (viii) IAS will conform to any reasonable recommendations made by governmental privacy authorities with respect to the protection of Personal Information provided by the CLIENT.

(b) **Appropriate Security Measures:**

For the purposes of Subsection 9(a)(v), "appropriate security measures" means technical, physical and procedural controls to protect Personal Information against destruction, loss, alteration, unauthorized disclosure to third parties or unauthorized access by employees or contractors employed by IAS, whether by accident or otherwise, especially where such Personal Information is transmitted over electronic networks under the control of or as authorized by IAS.

(c) **CLIENT'S Representations and Warranties:**

Where CLIENT discloses Personal Information to IAS, the CLIENT represents and warrants that:

- (i) All Personal Information disclosed to IAS has been done in accordance with all applicable laws pertaining to the Personal Information in question, and specifically, where applicable, consent by the individual(s) whose Personal Information is provided has been obtained; and
- (ii) CLIENT will identify a contact authorized to respond to IAS' enquiries concerning the Personal Information provided to IAS and to promptly address all enquiries concerning such information.

10. **REPRESENTATIONS AND WARRANTIES**(a) **IAS' Representations and Warranties**

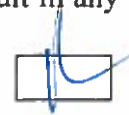
IAS represents and warrants to CLIENT (and acknowledges that CLIENT is relying upon such representations and warranties in entering into this Agreement), the following:

- (i) IAS is a corporation organized and existing under the laws of the Province of Ontario;
- (ii) IAS has the corporate power and authority to enter into and perform its obligations to provide Services under this Agreement and the performance by IAS of its obligations to provide Services under this Agreement will not conflict with or result in any breach of any of the terms, conditions or provisions of its constating documents or by-laws or any other applicable laws; and
- (iii) as of the Effective Date of this Agreement, IAS has no knowledge of any claims or suits that may materially affect IAS' ability to perform its obligations under this Agreement.

(b) **CLIENT's Representations and Warranties**

CLIENT represents and warrants to IAS (and acknowledges that IAS is relying upon such representations and warranties in entering into this Agreement), the following:

- (i) CLIENT is a corporation organized and existing under the laws of the jurisdiction set out on the first page hereof;
- (ii) CLIENT has the corporate power and authority to enter into and perform its obligations under this Agreement and the performance by CLIENT of its obligations under this Agreement will not conflict with or result in any

breach of any of the terms, conditions or provisions of its constating documents or by-laws or any other applicable laws; and

- (iii) as of the Effective Date of this Agreement, CLIENT has no knowledge of any claims or suits that may materially affect CLIENT's ability to perform its obligations under this Agreement.

11. LIMITED WARRANTY AND LIABILITY

- (a) IAS warrants that the Services will be performed substantially in accordance with the description in Schedule "A". IAS makes no other warranties or representations, express or implied, with respect to the Services and all warranties of merchantability and fitness for a particular purpose are expressly excluded. IAS also excludes any warranties or representations, express or implied, as to the quality, capabilities, operations, performance or suitability of any third party software, hardware or third party products (including the ability to integrate same) purchased or used by the CLIENT in connection with the Services and disclaims all liabilities in connection with the inability of IAS to perform the Services as a result of failures or incompatibility of the third party software, the hardware or third party products.
- (b) IAS SHALL NOT BE LIABLE, IN ANY WAY, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, REMOTE, SPECULATIVE, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND OR TYPE, INCLUDING BUT NOT LIMITED TO: (I) DAMAGES FOR BUSINESS INTERRUPTION, (II) DAMAGES TO REPUTATION OR GOODWILL, AND (III) DAMAGES FOR DAMAGED, LOST OR CORRUPTED DATA, IRRESPECTIVE OF WHETHER ANY SUCH DAMAGES OR EXPENSES ARISE OUT OF BREACH OF CONTRACT, OR TORT. THE PARTIES FURTHER AGREE THAT IAS' TOTAL LIABILITY FOR ANY DIRECT DAMAGES ARISING OUT OF THIS AGREEMENT SHALL NOT EXCEED THE SUM OF FIFTY THOUSAND DOLLARS IN CANADIAN CURRENCY (CDN \$50,000) IN THE AGGREGATE.

12. TERMINATION

- (a) IAS may terminate this Agreement immediately, upon providing CLIENT with written notice, if CLIENT breaches any provision of this Agreement.
- (b) A party hereto may terminate this Agreement immediately, upon provision of written notice, upon the occurrence of any one of the following events:
 - (i) all or substantially all of the assets of the other are transferred to an assignee for the benefit of creditors;
 - (ii) all or substantially all of the assets of the other are transferred to a receiver or to a trustee in bankruptcy;

- (iii) a proceeding is commenced against the other under any bankruptcy, insolvency or similar laws and such proceeding is not dismissed within sixty (60) days; or
 - (iv) the other is adjudged bankrupt or insolvent.
- (c) Except in the case of termination of this Agreement by CLIENT pursuant to Subsection 12(b), upon termination of this Agreement:
- (i) all instalments of the Service Fee or the Renewal Period Fees, as the case may be, shall accelerate and become immediately due and payable as of the termination date; and
 - (ii) CLIENT shall immediately pay IAS, without deduction, delay, or withholding of any kind, by way of certified cheque or wire transfer (at IAS' election) a lump sum payment representing (1) any instalment(s) of the Service Fee and/or Renewal Period Fees which may become due under Subsection 12(c)(i) of this Agreement and (2) any other instalments or amounts which were due but not paid by CLIENT before termination.
- (d) Upon termination of this Agreement each party shall immediately, at the other's election, either return or destroy and provide certification as to destruction (certified by an officer of the relevant party, the form and substance of such certification to be satisfactory to the other and its legal counsel, acting reasonably), all Confidential Information and related documentation in the other's possession or control, or in the possession or control of any of the other's employees and/or contractors.

13. SURVIVAL

The following Sections of this Agreement shall survive the expiration or termination of this Agreement: Section 8 (Confidentiality), Section 11 (Limited Warranty and Liability), Section 12 (Termination), Section 13 (Survival), and Subsections 16(g) (Governing Law) and 16(h) (Further Assurances).

14. NOTICES

All notices required or permitted under this Agreement shall be in writing and delivered personally, or sent by courier, prepaid registered mail, facsimile or electronic mail to the parties as follows:

- (a) **if to IAS:**
- The Investment Administration Solution Inc.
330 Bay Street, Suite 400
Toronto, Ontario
M5H 2S8
- Attention: President
Facsimile: (416) 368 7355

E-mail: rchan@investadmin.com

with a copy to: Gowling Lafleur Henderson LLP
Suite 1600, 1 First Canadian Place, 100 King Street West
Toronto, Ontario
M5X 1G5

Attention: Paul Fornazzari, Partner
Facsimile: (416) 369 7250
E-mail: paul.fornazzari@gowlings.com

(b) **if to CLIENT:** GrowthWorks Canadian Fund Ltd.
150 King Street West, Suite 2020
Toronto, Ontario M5X 1J9

Attention: C. Ian Ross
Facsimile: (416) 599 9250
Email: ianross@bell.net

with a copy to: FTI Consulting Canada
79 Wellington Street West, Suite 2010, P.O. Box 104
Toronto, Ontario
M5K 1G9

Attention: Senior Managing Director
Facsimile: (416) 649 8181
E-mail: Paul.Bishop@fticonsulting.com

with a copy to: McCarthy Tetrault LLP
Suite 5300 Toronto Dominion Bank Tower
Toronto Dominion Centre
66 Wellington Street West
Toronto, Ontario
M5K 1E6

Attention: Jonathan Grant and Emily Ng
Facsimile: (416) 868 0673
E-mail: jgrant@mccarthy.ca

Any notice delivered personally or by courier shall be deemed to have been received on the date of delivery. Any notice sent by electronic mail or facsimile shall be deemed to have been delivered (and received by the intended recipient) four (4) hours after transmission, provided that, such transmission is evidenced with a confirmation of delivery. Any notice mailed by prepaid registered service shall be deemed to have been delivered on the third (3rd) business day after mailing, provided that there is no mail interruptions pending or in effect, in which case delivery can only be made by the other enumerated methods.

15. **CONFIDENTIALITY OF AGREEMENT**

- (a) Except where either party is required to disclose any provision of this Agreement in order to exercise any right or to perform any obligation hereunder, and subject to any requirement for disclosure under any applicable law or by any regulatory authority, neither party shall disclose the terms and conditions of this Agreement to any other Person, without the other party's consent, other than to such party's legal and business advisors.
- (b) In addition to the foregoing, the parties confirm that this Agreement is a confidential document entered into in the ordinary course and is and will not be designated as a "material" contract including, but not limited to, under National Instrument 81-101. As a result, the Agreement will not be filed with securities regulators or any other regulator, agency or entity which could provide public access to the document and will not otherwise be made available to the public. Should a regulatory authority explicitly require that the Agreement be publicly filed, CLIENT will so notify IAS and will remove/block out all private or Confidential Information, including all pricing information, and will provide a copy of the version it proposes to file to IAS and will allow IAS sufficient time to comment on such version before filing.

16. **GENERAL**

(a) **Interpretation**

In this Agreement: (i) words denoting the singular include the plural and vice-versa; (ii) when calculating a period of time within which or following which any act is to be done or step taken, the date which is the reference day in calculating such period shall be excluded and, if the last day of such period is not a business day, the period shall end on the next business day; (iii) the use of section numbers and headings and titles in this Agreement is for convenience of reference only and shall not affect the construction or interpretation of this Agreement; (iv) any reference to currency or dollar values in this Agreement shall refer to the lawful currency of Canada, expressed in Canadian dollars unless expressly indicated otherwise; and (v) in the event of any conflict between the provisions of this Agreement and with the provisions of any Schedule and/or other document, the provisions of this Agreement shall take precedence over any such other Schedule and/or other document.

(b) **Entire Agreement; Amendments to Agreement**

This Agreement, together with the attached Schedules, constitutes the entire agreement among the parties pertaining to the matters contained in this Agreement and supersedes all prior agreements, understandings, negotiations and discussions in respect thereof between the parties, whether oral, written, express or implied. No modification or amendment to this Agreement shall be valid unless such modification or amendment is permitted under this Agreement

pursuant to Subsection 5(b) of this Agreement, or unless such modification or amendment is made in writing and signed by all of the parties.

(c) **Interest**

All amounts owing by CLIENT which are not paid when due shall bear interest at the rate of one and a half percent (1.5%) per month (or in other words, eighteen percent (18%) per annum)) from the date that such amounts first became due.

(d) **Waiver**

No waiver of any provision of this Agreement shall be valid unless such waiver is made in writing, and no waiver or indulgence or forbearance shall constitute a waiver of such party's right to insist upon full performance, in a timely manner, of all of the other party's obligations under this Agreement. Waiver of any one provision shall not constitute a waiver of any other provision of this Agreement.

(e) **Severability**

If any provision or part of any provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions or parts of any provisions shall not be affected or impaired.

(f) **No Assignment**

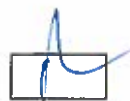
CLIENT may not assign this Agreement, or delegate/assign any of its rights or obligations or duties under this Agreement, without the prior written consent of IAS.

(g) **Governing Law**

This Agreement shall be governed and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The parties to this Agreement hereby irrevocably and unconditionally attorn to the exclusive jurisdiction of the courts of the Province of Ontario and all courts competent to hear appeals therefrom.

(h) **Further Assurances**

Each party shall at any time and from time to time, upon each request by the other party, execute and delivery such further documents and do such further acts and things as the other party may reasonably request to evidence, carry out and give full effect to the terms, conditions, intent and meaning of this Agreement.



(i) **Enurement and Binding Effect**

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

(j) **Force Majeure**

IAS shall not be in default under this Agreement by reason of any failure in performance of this Agreement if the failure arises, directly or indirectly, out of causes reasonably beyond its direct control or foreseeability. IAS shall use reasonable commercial efforts to work around such event of force majeure.

(k) **Counterparts**

This Agreement may be executed in any number of counterparts, and delivered by facsimile or email attachment, with the same effect as if all parties hereto had all signed the same document. All counterparts shall be construed together and shall constitute on and the same original agreement.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**THE INVESTMENT ADMINISTRATION
SOLUTION INC.**

By: 

Name: Rocky Chan, C.A.

Title: Executive Vice President & CFO

GROWTHWORKS CANADIAN FUND LTD.

By: 

Name: C. Ian Ross

Title: Interim CEO

Schedule A

Services

Initial set up of the CLIENT Family of Funds on the system

Recordkeeping Services (Transfer Agency Services)

The Recordkeeping Services hereunder shall apply to the investment funds and financial products offered by CLIENT.

1. Daily

- 1.1 Update unitholder records with transaction files (in prescribed format) from CLIENT;
- 1.2 Follow up rejected transactions to process as appropriate;
- 1.3 Process fax orders and non financial updates requests;
- 1.4 Report daily FundSERV N\$M settlements for purchases, redemptions, commissions, redemption fee, etc.; and
- 1.5 Provide call centre services for dealer inquiries (Dealer Services).

2. Weekly

- 2.1 Send trade confirmations* to dealers and clients;

3. Daily, Weekly, or Monthly (per valuation frequency)

- 3.1 Unitize unitholder records as per the respective fund's valuation frequency by using the Net Asset Value Per Share ("NAVPS") provided by the NAV Calculating Agent.

4. Annually

- 4.1 Process supplementary tax receipts*; and
- 4.2 Process non-resident withholding tax receipts*.

5. Other

- 5.1 Process commission, trailer fees, distribution and management fee rebates as per the fund's prospectus, offering memorandum or information statement; and
- 5.2 Send unitholder statements as instructed by CLIENT*.

* These items are subject to surcharge as per Schedule C attached.

Fund Accounting Services

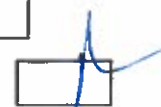
N/A

SCHEDULE B*Setup Date:***December 15, 2014****FundSERV Membership:**☐ **Yes - Management Company Code N/A**☒ **No - Number of Client Service Menu (CSM) Users: 1 (Standard) + 0 (Extra) = 1**

Fund (Group) Name: CLIENT's seventeen (17) Labour Sponsored Investment Funds under FundSERV management company code "WVN" rearranged from "WOF" and "WVN" for reference purposes as follows:

	FUND		EXISTING		PLANNED	
	CODE	DESCRIPTION	WOF	WVN	WOF	WVN
1	AFL	ACCESS FUND LP	x		x	
2	443	GW ATL - BAL (443)		x	x	
3	431	GW ATL - GIC (431)		x	x	
4	691	GW CDN DIV I (691)		x		x
5	692	GW CDN DIV II (692)		x		x
6	671	GW CDN FIN I (671)		x		x
7	672	GW CDN FIN II (672)		x		x
8	610	GW CDN FUND (610)		x		x
9	612	GW CDN FUND (612)		x		x
10	613	GW CDN FUND (613)		x		x
11	614	GW CDN FUND (614)		x		x
12	615	GW CDN FUND (615)		x		x
13	616	GW CDN FUND (616)		x		x

	FUND		EXISTING		PLANNED	
	CODE	DESCRIPTION	WOF	WVN	WOF	WVN
14	617	GW CDN FUND (617)		x		x
15	618	GW CDN FUND (618)		x		x
16	619	GW CDN FUND (619)		x		x
17	631	GW CDN GIC I (631)		x		x
18	632	GW CDN GIC II (632)		x		x
19	651	GW CDN GWTH I (651)		x		x
20	652	GW CDN GWTH II (652)		x		x
21	505	GW COMM (505)		x	x	
22	510	GW COMM (510)		x	x	
23	511	GW COMM (511)		x	x	
24	512	GW COMM (512)		x	x	
25	513	GW COMM (513)		x	x	
26	141	WOF BAL – 141	x		x	
27	142	WOF BAL – 142	x		x	
28	888	WOF BAL – 888	x		x	
29	890	WOF BAL – 890	x		x	
30	892	WOF BAL – 892	x		x	
31	894	WOF BAL – 894	x		x	
32	895	WOF BAL – 895	x		x	
33	896	WOF BAL – 896	x		x	
34	104	WOF COMM – 104	x		x	
35	105	WOF COMM - 105	x		x	
36	112	WOF COMM - 112	x		x	

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	FUND		EXISTING		PLANNED	
	CODE	DESCRIPTION	WOF	WVN	WOF	WVN
37	113	WOF COMM - 113	x		x	
38	212	WOF COMM - 212	x		x	
39	213	WOF COMM - 213	x		x	
40	131	WOF GIC – 131	x		x	
41	132	WOF GIC – 132	x		x	
		Total: (41)	17	24	24	17

For greater clarity, CLIENT funds (17 fund codes) will be under management company code WVN and CLIENT offering will be migrated to EXEMPTRAN® (XMT) from FundSERV.

SCHEDULE C

Service Fee and Instalment Amounts; Renewal Period Fees and Instalment Amounts

All amounts herein are in Canadian dollars and before applicable taxes.

Service Fee and Instalment Amounts

The Service Fee is \$377,000.00 (inclusive of one-time fund setup fee of \$34,000.00) plus applicable taxes of \$49,010.00 (HST) such that the total Minimum Amount is \$426,010.00 inclusive of HST.

Service Fee Formula

The Service Fee is calculated per the formula (A) as set out below:

$$(A): \quad \text{Service Fee} = \text{Greater of Minimum Amount and } \sum_{i=1}^{i=n} (\text{Number of Unitholders}_i \times \text{Rate}_i)$$

where

Service Fee is the total fee for the Service Period for Recordkeeping Services of the Labour Sponsored Investment Funds (LSIF).

Minimum Amount is the sum of the total of the Minimum Annual Amounts for the Service Period or Renewal Period being the sum aggregate of the instalment amounts for the entire term including one-time setup fee but exclusive of chargeable items such as customisation and out of pocket expenses.

Minimum Annual Amount is the annual minimum Service Fee for each calendar year being \$72,000.00 for up to four (4) fund codes, thereafter \$2,000.00 for each additional fund code.

Number of Unitholders_i is the number of unitholders outstanding at the beginning of each instalment period *i*, where *n* is the total number of instalment periods.

Rate_i is \$25.00 per unitholder per annum for up to 2,880 unitholders, thereafter to be \$6.00 per unitholder per annum for the next 12,000 unitholders and then at \$1.20 per unitholder per annum.

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Instalment Amounts

The Service Fee may be paid in instalments, in the following amounts and on the following dates: (The instalment amounts shown are each equal to one-twelve (1/12) of the greater of the Minimum Annual Amount subject to adjustments per the Service Fee Formula (A).)

Instalment Number	Date to be paid	Amount
Instalment 0	<u>December 9, 2014</u>	\$ <u>83,000.00</u> plus \$ <u>10,790.00</u> HST
Instalment 1	January 1, <u>2015</u>	\$ <u>98,000.00</u> plus \$ <u>12,740.00</u> HST
Instalment 2	January 1, <u>2016</u>	\$ <u>98,000.00</u> plus \$ <u>12,740.00</u> HST
Instalment 3	April 1, <u>2017</u>	\$ <u>98,000.00</u> plus \$ <u>12,740.00</u> HST

Invoices based on the foregoing table are pre-printed and issued for the instalments of the entire Service Period or Renewal Period and adjustments are by way of supplementary invoices or credit notes issued quarterly; where appropriate, new series of invoices for the balance of the Service Period or Renewal Period will be issued to reflect the new Minimum Amount. For greater clarity, all other services such as those for mailing of tax slips, *epost* and approved quotes for chargeable service requested by CLIENT, etc. are invoiced separately from the fee instalments.

Chargeable Additional Services

All unscheduled services (On Request Jobs) must be requested via one of the request facilities, i.e. Fund Accounting Requests Module (FARM), Transfer Agency Requests Module (TARM) or Query/Requests Module (Q/RM) as may be appropriate to be quoted at the then prevailing rates subject to applicable premiums and approval by CLIENT which is mandatory (unless waived) before work may commence.

Renewal Service Fee and Instalment Amounts

Subject to a change of the Renewal Period Fee under Section 5, the Renewal Period Fee for the Renewal Period immediately following the Service Period shall be the same amount as the Service Fee, and Renewal Period Fee for a later Renewal Period shall be the same amount as the Renewal Period Fee paid for the previous Renewal Period.

The Renewal Service Fee may be paid in instalments, in the following amounts and on the following dates:

Instalment Number	Date to be Paid	Amount
Instalment 1	January 1 of the first (1 st) calendar year of the Renewal Period	For the Renewal Period immediately following the Service Period, the amount paid as Instalment 1 of the Service Period. For any later Renewal Period, the amount paid as Instalment 1 of the immediately previous Renewal Period.
Instalment 2	January 1 of the second (2 nd) calendar year of the Renewal Period	For the Renewal Period immediately following the Service Period, the amount paid as Instalment 2 of the Service Period. For any later Renewal Period, the amount paid as Instalment 2 of the immediately previous Renewal Period.
Instalment 3	January 1 of the third (3 rd) calendar year of the Renewal Period	For the Renewal Period immediately following the Service Period, the amount paid as Instalment 3 of the Service Period. For any later Renewal Period, the amount paid as Instalment 3 of the immediately previous Renewal Period.

Other Charges and Disbursements

Out-of-pocket costs such as those associated with the printing and mailing of financial statements, etc. are not included in the Service Fees and an administration fee of 15% will be levied.

1. Manual Trades

Reckoned on a quarterly basis, any manually processed trades will be charged \$25.00 each and any manual setup of a new unitholder will be charged \$50.00 each (applicable only to direct purchases, redemptions, and switches; for greater clarity, registered account transactions refer to those under the CLIENT's own Specimen Plan) plus applicable taxes. The charge of \$25.00 is not applicable to the first 30 trade of each month. Where trades are submitted in the prescribed format which IAS may revise from time to time as required for Batch Mode processing, the above levies on manual trades do not apply.

2. For Pre-Authorized Contribution ("PAC") or Systematic Withdrawal Program ("SWP") plans and Electronic Fund Transfer ("EFT") set up

- One time Setup fee of \$1,000.00 plus applicable taxes applies; the processing charge is \$200.00 plus applicable taxes for each PAC, SWP and EFT run.

3. CLIENT'S Own RRSP Specimen Plan

- One-time Setup fee of \$2,000.00 plus applicable taxes;
- A base fee of \$12,000.00 per annum (payable at \$1,000.00 per month before applicable taxes) applies for up to 600 registered accounts;
- \$12.00 annual charge for each registered account over and above 600 registered accounts;
- \$25.00 for each manually processed full or partial transfer out of a registered account.
- \$25.00 for the termination of a registered account; and
- Files involving adjudication (divorce, death, bankruptcy, CRA Claims, etc.) will be referred back to CLIENT to seek the Specimen Plan Trustee's advice for resolution. Any fees charged by the Trustee in this regard shall be CLIENT's responsibilities.

4. CLIENT'S Own Tax Free Savings Account ("TFSA")

- One-time Setup fee of \$1,000.00 plus applicable taxes;
- A base fee of \$6,000.00 per annum (payable at 500.00 per month before applicable taxes) applies for up to 300 TFSA accounts;
- \$12.00 annual charge for each TFSA account over and above 300 registered;
- \$25.00 for the termination of a TFSA account;
- Files involving adjudication (divorce, death, bankruptcy, CRA Claims, etc.) will be referred back to CLIENT to seek the advice of the Bare Trustee of the Specimen Plan for resolution. Any fees charged by the Trustee in this regard shall be sole responsibility and liability of CLIENT.

5. Canada Post *epost*

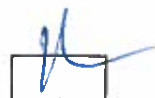
CLIENT is a Sub-Mailer under IAS as an *Epost* Mailer ("Mailer"), subject to the following:

- As Sub-Mailer, CLIENT shall observe the requirements of Canada Post relative to *epost*, and pay one-time setup fee of \$5,000.00 plus applicable taxes, ongoing administration fee of \$150.00 per month plus

applicable taxes and prepay the epostage in question by certified cheque, money order, debit card or credit card prior to releasing of the *epost* items by IAS to Canada Post.

- CLIENT must prepay in full the estimated epostage before the *epost* items will be released to Canada Post for processing and must pay any underpayment upon receipt of supplementary invoice from IAS. (IAS will refund any overpayment to CLIENT within thirty days of receipt of *epost* billing report from Canada Post.)

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ADDENDUM AGREEMENT

THIS AGREEMENT is made as of the 6th day of January, 2015, between **THE INVESTMENT ADMINISTRATION SOLUTION INC. ("IAS")** and **GROWTHWORKS CANADIAN FUND LTD. ("GWCF" or "CLIENT")**.

WHEREAS pursuant to the agreement dated January 6, 2015 (including the schedules thereto, the "**IAS Services Agreement**"), CLIENT has engaged IAS to perform certain administration services on its behalf;

AND WHEREAS CLIENT has requested and IAS, as an accommodation to CLIENT, has agreed to further amend the terms of the abovementioned only to the extent set out herein;

AND WHEREAS CLIENT understands that this accommodation is being given by IAS because of CLIENT's special circumstances only and CLIENT acknowledges that if such accommodation is disclosed by CLIENT (other than as permitted by this agreement or the IAS Services Agreement) significant business related losses may be suffered by IAS;

NOW THEREFORE for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree and covenant as follows:

1. Subject to the terms and conditions herein contained, the IAS Services Agreement is hereby amended as follows:

- 1.1 Until CLIENT resumes regular operation, i.e. when it emerges from protection under the Companies Creditors Arrangement Act ("CCAA"), the service fees of the Service Period and subsequent Renewal Period shall be \$24,000.00 plus applicable taxes; and
- 1.2 While CLIENT is under CCAA protection, the annual administration fee for registered accounts opened and maintained under the specimen plan trustee by Concentra Trust ("**Concentra**") shall be waived.

2. For greater clarity, the special rate in 1.1 above supersedes the fee formulae set out in Schedule C but reimbursement of the out-of-pocket expenses shall apply.

3. The IAS Services Agreement is further amended by the following:

- 3.1 The RECITALS are modified such that paragraph D is now re-lettered to paragraph F and the new paragraphs D and E are inserted as follows:

"D. AND WHEREAS on October 1, 2013 CLIENT obtained protection from its creditors and certain other relief pursuant to an initial order made by the Ontario Superior Court of Justice, Commercial List (the "**Court**"), which was amended and restated on October 29, 2013 (as such order may be further amended and restated from time to time, the "**Initial Order**") pursuant to the Companies' Creditors Arrangement Act (Canada) (the "**CCAA**")




E. AND WHEREAS FTI Consulting Canada Inc. has been appointed as the Court-appointed monitor of CLIENT (the "**Monitor**") pursuant to the Initial Order in respect of the CCAA Proceedings;"

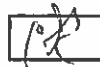
- 3.2 Section 1 is amended by including the following three definitions at the end of the section:

"business day" means any day other than a Saturday, Sunday or statutory holiday in the City of Toronto, Ontario.

"CCAA Proceedings" means the proceedings pursuant to the CCAA pursuant to the terms of the Initial Order.

"knowledge of CLIENT" means the actual knowledge of C. Ian Ross.

- 3.3 Section 3(a) is amended by adding the words "of 2017" which words replace "of the third (3rd) successive calendar year following the calendar year of the Set-Up Date" in their entirety.
- 3.4 Section 5 is amended by inserting "to the following Renewal Period, if any" at the end of the last sentence.
- 3.5 Section 8(c) is completely replaced by "Each party may only disclose the Confidential Information of the other to its directors, officers, employees, lawyers, accountants, financial advisors and/or contractors who have a "need-to-know" such Confidential Information in order to perform their duties in furtherance of the purposes of this Agreement, provided that such party exercises all commercially reasonable efforts to ensure that such employees and/or contractors abide by, and comply with, the confidentiality provisions and standards of confidentiality set forth in this Agreement. Without limiting the generality of the foregoing, CLIENT may disclose the terms of this Agreement to the Monitor in connection with the CCAA Proceedings.
- 3.6 Section 9(a)(iv) is amended by inserting "; provided that nothing in this Section 9(a)(iv) will entitle IAS to use any Personal Information within" at the end of this subsection.
- 3.7 Section 9(c)(i) is amended by inserting "done in accordance with an order of a court having jurisdiction or" after the words "All Personal Information disclosed to IAS has been".
- 3.8 Section 10(b)(ii) is amended by inserting at the beginning of the section "Subject to the terms of the Initial Order,".
- 3.9 Section 12(a) is amended by inserting "and such breach has not been waived or cured within 30 days following the date on which IAS notifies CLIENT of such breach" at the end the subsection.
- 3.10 Section 12(b)(iii) is amended by removing the word "or" from the end of the section; section 12(b)(iv) is amended by replacing the "." with "; or" at the end of the section; and




a new section 12(b)(v) is added to read "all or substantially all of the assets are sold to a purchaser and the CCAA proceedings are terminated."

3.11 Section 12(b)(iv) is amended by inserting "; provided that IAS may not terminate this Agreement as a result of the CCAA Proceedings or any continuation or extension thereof or as a result of the insolvency of CLIENT for as long as the CCAA Proceedings are continuing." at the end of the subsection.

3.12 Section 16(f) is amended by replacing in its entirety the words "Neither party may assign this Agreement, or delegate/assign any of its rights or obligations or duties under this Agreement, without the prior written consent of the other party; and said consent shall not be unreasonably withheld."

4. This Agreement shall be kept strictly private and confidential by CLIENT. Without the prior written consent of IAS, CLIENT shall not disclose to any third party (other than directors, officers, employees, lawyers, accountants, financial advisors and the Monitor) the fact that this Agreement exists or any aspect or term of this agreement. If CLIENT is under a legal obligation to disclose the existence or any aspect or term of this Agreement pursuant to an order of any court or other like entity with jurisdiction, CLIENT shall provide IAS with immediate notice of such order, including copies of subpoenas or orders requesting the information, and CLIENT shall fully cooperate with IAS in resisting the disclosure via a protective order or other appropriate legal action, and shall not make disclosure until IAS has had a reasonable opportunity to resist such disclosure, unless CLIENT is ordered otherwise by such court or entity. CLIENT's privacy and confidentiality obligations with respect to this Agreement shall be deemed independent of the parties' business relationship generally and shall survive the expiration or termination, for any reason, of the IAS Services Agreement and the parties' other dealings. CLIENT assumes liability for all costs, expenses, damages and losses (including, but not limited to, attorney's fees, investigation costs, and business related losses) arising from the breach of the privacy and confidentiality obligations of CLIENT (whether such disclosure was accidental, negligent, reckless, intentional or otherwise) by directors, officers, agents, advisors or employees of CLIENT or other persons (collectively, the "Agents"). CLIENT agrees, at its own expense, to take all reasonable measures including, but not limited to, court proceedings, to restrain any person to whom any of the Agents has disclosed the existence or any aspect or term of this Agreement from making any disclosure in a manner contrary to this Agreement.

5. This agreement shall be governed and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The parties to this agreement hereby irrevocably and unconditionally attorn to the exclusive jurisdiction of the courts of the Province of Ontario and all courts competent to hear appeals therefrom.

6. This agreement may be executed in any number of counterparts, and delivered by facsimile or email attachment, with the same effect as if all parties hereto had all signed the same document. All counterparts shall be construed together and shall constitute one and the same original agreement.

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IN WITNESS WHEREOF the parties hereto have caused this agreement to be executed by their duly authorized officers as of the date first above written.

THE INVESTMENT ADMINISTRATION SOLUTION INC.

By:



Rocky Chan, Executive Vice President & Chief Financial Officer

GROWTHWORKS CANADIAN FUND LTD.

Per:



C. Ian Ross, Interim Chief Executive Officer

THE INVESTMENT ADMINISTRATION SOLUTION INC.

(SIGNATURE PAGE)

From: [Meredith, Heather L.](#)
To: [Caitlin Fell](#); [Bishop, Paul](#)
Cc: [JONATHAN GRANT](#); [Lui, Mitchell](#); [C. Ian Ross](#)
Subject: FW: [EXT] Further Addendum Agreement [MT-MTDOCS.FID2642510]
Date: Thursday, January 23, 2025 5:53:19 PM
Attachments: [image001.png](#)
[image002.png](#)
[GWCF-2-02.pdf](#)
[GWCF-2-02A.pdf](#)

Hi Caitlin and Paul,

See below note that we received from IAS today. Jonathan, Mitchell and I are drafting a response and will reference in it that they can expect to hear from Monitor's counsel shortly.

Paul, I saw your email confirming you were okay with the draft letter to IAS. Caitlin, did you have any comments? Could that be ready to go tomorrow? Timing-wise, we could send our response out first, copying you. The Monitor letter could then come shortly after. Then we could follow-up with a call. Does that all make sense to everyone?

Also, does anyone have any comment on the attached invoices?

Thanks,

Heather



Heather Meredith

Partner | Associée
 Bankruptcy and Restructuring | Faillite et restructuration
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 C: 416-725-4453
 F: 416-868-0673
 E: hmeredith@mccarthy.ca

McCarthy Tétrault LLP

Suite 5300
 TD Bank Tower
 Box 48, 66 Wellington Street West
 Toronto ON M5K 1E6

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From: KChan@jsitsp.com <KChan@jsitsp.com>
Sent: Thursday, January 23, 2025 10:29 AM
To: Lui, Mitchell <mnlui@mccarthy.ca>
Cc: dnickel@jsitsp.com; Meredith, Heather L. <HMEREDITH@MCCARTHY.CA>; C. Ian Ross
 (ianross@bell.net) <ianross@bell.net>; JONATHAN GRANT <jonathan_grant13@rogers.com>
Subject: [EXT] Further Addendum Agreement

Hi Mitchell (and Heather):

Accounting has just brought to my attention that the attached invoice is now overdue and also attached is the new invoice for the Portal enhancements. Please look into when we may expect to receive payment.

(Please accept our apologies for the oversight in not getting around to issue the new invoice.)

Further to my January 13, 2025 email, we have reviewed the Further Addendum Agreement as amended by you and concluded that we will need help in the following before involving counsel and other advisors:

(Not in any particular sequence)

1. Historical Copy (the "**Escrow Copy**")

- need approval for this production (estimated at \$60,000 plus HST with 20% contingency on top)
- prepayment is required (to be held in trust with our counsel)
- particulars of the Escrow Agent (name, title, and coordinates)
- Escrow Agreement (If IAS is a party to this agreement, additional help will be required to defray our legal cost.)

2. Service Levels

- need definition of Service Level
- particulars of deliveries and ensuing deliverables (so that we may revisit the budget)

3. Contingency

- need definition of contingency and contingency credit
 - detailed review will then be conducted to establish a new budget
- (FYI - The contingency model we have been using since inception uses a global allowance to handle cost overruns with the ceiling of 20% of the total budget of the assignment - affording flexibility to cover individual items from a global contingency pool. This approach will help avoid the detailed assessments of individual items and serve as the equivalent of a flat rate contract. All funding with the exception of the Escrow Copy will be held in Trust at McCarthy to be disbursed as needed. Any unused contingency will be accounted for by McCarthy.)

4. Indicia

- IAS has its own postal indicia which is a marking that identifies the service name and the customer number which must be printed or applied to each mail item when paying by a commercial account.
- Canada Post refers to these (cheques, account statements and tax slips) as letter mails
- for letter mails, the postage must either be paid at the postal processing centre (not a post office) when presenting the items or be prepaid online.
- this is one of our control tools to ascertain the actual number of letter mails prepared/delivered to Canada Post by the third party commercial printing and mailing service provider.

(N.B. The return address is our 390 Bay Street offices and we need guidance for the handling of undelivered mails received by IAS.)

5. Concentra Trust ("**Concentra**")

- what is its role in the wind-up, dissolution, and post-dissolution
- what will be its privity, if any, with IAS
- need specifics of deliveries and deliverables of the specimen plans w.r.t. Concentra

(If a tri-partite agreement is required, we will need help on our legal cost)

6. Distributions

- need banking details (for cheque form printing, etc.)
- payment arrangements required for third parties (commercial printing and mailing service providers and Canada Post, et. al. will need to be prepaid either to us first or directly to the third parties)
- undelivered distribution cheques (we need your instructions)
- replacement cheques (need guidance on these also)

7. Bank Reconciliation

- bank account reconciliation particulars (who will be responsible for this? How will this be accepted?)
- need provision for this cost in the new budget if it is to be performed by IAS

8. Final Certificate (filed by Monitor to Court)

- need specifications for the information required to support this filing
- the new budget may be impacted by this

There may be other areas requiring your help for the next internal review before IAS engages counsel and/or other advisors as appropriate.

We trust that you (and Ian who is copied on this email) will share our concerns and we will await to hear from you.

Most grateful to your time and attention on the above,

Thanks,
Konrad

Konrad Chan
Chief Financial Officer & Alternate COO
The Investment Administration Solution Inc.
300-390 Bay Street

Toronto, ON, Canada

M5H 2Y2

T. 416.368.9569 x266

F. 416.368.7355

www.TheSolutionPeople.com

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From: KChan@jsitp.com
To: [Meredith, Heather L.](mailto:Meredith.Heather.L)
Cc: [Caitlin Fell](mailto:Caitlin.Fell); dnickel@jsitp.com; [C. Jan Ross](mailto:C.Jan.Ross) (ianross@bell.net); JONATHAN GRANT; Lui, Mitchell; Bishop, Paul
Subject: RE: [EXT] Your Voicemail [MT-MTDOCS.FID2642510]
Date: Tuesday, February 4, 2025 8:34:52 AM
Attachments: [ATT00001.png](#)
[ATT00002.png](#)
[ATT00003.png](#)
[ATT00004.png](#)
[GWCF-Portal-Registration-Enhancements.pdf](#)
[account-statement - GW Canadian - 02-01-2025.pdf](#)

Heather,

Please see comments below:

1. Fund Property - It would be useful to have the specifics of when (and where) was this particular deliverable (for ETA January 31, 2025) requested. (And we will relay your Motion plan to counsel.)
2. Service Levels - Unless we hear differently from you by Thursday next, February 6, 2025, we shall accept Mitchell's identifications of the respective delivery date and execution of each task in Appendix 1 as definition of the Service Level in question. (We need certainty in this regard.)
3. Contingency - We have been consistent all along in our position, being that of the global contingency amount model versus the individual items model (Mitchell's). We did not at any time touch on "*not intending to provide each of the services on a reasonable timeline*" as you suggested.
4. Indicia - We are not aware of another depiction of this service with respect to Canada Post. (If you are, please enlighten.)
5. Concentra - Thank you for confirming that Concentra has no role here. (We shall review and provide applicable notes in due course.)
6. Bank Reconciliation - We are confused: either IAS is involved in this or it is not. (Our understanding is that we will only be coordinating the printing and mailing of distribution cheques.)
7. Portal Enhancement - We had specifically supplied a PDF copy of the email chain in support of this. (It contained the request, fulfillment and evidence of delivery - attached again for your convenient reference.)

Kindly note that late payment interest shall apply, if payment of the outstanding account (\$29,000 plus HST) is not received by close of business on February 6, 2025. (I have attached the updated account statement for your convenient reference and file.)

Sincerely,

Konrad

Konrad Chan
 Chief Financial Officer & Alternate COO
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 Toronto, ON, Canada
 M5H 2Y2
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 F. 416.368.7355
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From: "Meredith, Heather L." <HMEREDITH@MCCARTHY.CA>
 To: "KChan@jsitp.com" <KChan@jsitp.com>
 Cc: Caitlin Fell <cfell@reconllp.com>, "dnickel@jsitp.com" <dnickel@jsitp.com>, "C. Ian Ross" (ianross@bell.net) <ianross@bell.net>, JONATHAN GRANT <jonathan_grant13@rogers.com>, "Lui, Mitchell" <mnlui@mccarthy.ca>, "Bishop, Paul" <Paul.Bishop@fticonsulting.com>
 Date: 02/03/25 11:32 AM
 Subject: RE: [EXT] Your Voicemail [MT-MTDOCS.FID2642510]

Konrad,

Please see responses below:

1. Fund Property – IAS has been paid throughout this process to maintain the Fund register, which we understand was provided to you in a readable format. This is Fund property and must be returned. There is an existing Court order requiring full and complete access to Fund property be provided to the Monitor. We require IAS to comply with that Court order and to provide access to its property asap. We have consulted with the Court and it can hear a motion to compel production on February 10, 2025 at 10 a.m. Please confirm your counsel is available on that date. If we are forced to proceed with this motion, I expect that the Fund will seek costs.
2. Service Level – we have provided the targets in Appendix 1 and sought your comments in a few instances. If you think there is something missing or that more time is required to complete the relevant task, please provide specifics.
3. Contingency – Are you suggesting that you were previously not intending to provide each of the services on a reasonable timeline? We do not

understand or accept this position.

4. Indicia – This is simply a wording issue. The existing language in the draft does not make sense. If you can suggest language that meets your needs and makes sense please do so.
5. Concentra – Concentra has no role here. We do not understand what additional questions you have or why this remains an issue.
6. Bank Reconciliation – Perhaps there is a misunderstanding. We are talking about IAS reporting that its work is complete, which clearly must happen.
7. Portal Enhancement – Evidence of fulfillment and delivery has not been provided. Please provide.

With respect to deferring the file to counsel, I note that I am counsel for the Fund and you may wish to also have counsel involved. I also note that we have involved the Monitor and, as indicated above, we have been advised that the Court can hear a motion on February 10th to enforce the CCAA order since we have not received the Fund property as requested. In our view, it would be helpful to speak to clarify the remaining points to see if there is a solution and I have called you twice and requested a call by email to advance that. I have also requested the contact details for your counsel. It is not clear why you prefer to continue to engage only by email but I remain available to speak with you or your counsel. Further, the Fund and the Monitor are available to meet with you on Wednesday morning of this week to seek to resolve the outstanding issues between the parties. I suggest that would be the most productive next step. Please confirm your availability and that IAS representatives in attendance will have authority to make final decisions. In our view, a meeting would be very helpful to determine if the cost of a motion to enforce the CCAA Order and compel production can be avoided.

Sincerely,

Heather



Heather Meredith
 Partner | Associée
 Bankruptcy and Restructuring | Faillite et restructuration
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 C: 416-725-4453
 F: 416-868-0673
 E: hmeredith@mccarthy.ca

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 Toronto ON M5K 1E6

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From: KChan@jsitisp.com <KChan@jsitisp.com>

Sent: Monday, February 03, 2025 8:37 AM

To: Meredith, Heather L. <HMEREDITH@MCCARTHY.CA>

Cc: Caitlin Fell <cfell@reconllp.com>; dnickel@jsitisp.com; C. Ian Ross (ianross@bell.net) <ianross@bell.net>; JONATHAN GRANT <jonathan_grant13@rogers.com>; Lui, Mitchell <mnlui@mccarthy.ca>; Bishop, Paul <Paul.Bishop@fticonsulting.com>

Subject: RE: [EXT] Your Voicemail [MT-MTDOCS.FID2642510]

Heather,

Thank you for your email.

We are always open to finding a solution. Kindly enlighten us on your plan towards achieving this.

Perhaps a good start would be advising when may we expect to receive payment of the \$29,000 plus HST outstanding.

The below points were specifically responded to in my email dated January 28, 2025 and only three of them were addressed (and marked as such) would be useful to put closure to the remainder ASAP:

1. Fund Property
2. Service Level
3. Contingency
4. Indicia
5. Concentra
6. Distribution
7. Bank Recommendation (addressed)
8. Final Certificate (addressed)
9. Portal Enhancement (source, fulfillment, and evidence of delivery provided but not yet paid)

Please understand that we have been and still are trying hard to contain the issues before engaging counsel in the dialogue.

We are amenable to deferring the file to counsel if it is your preference in which case he will reach out to you in due course. (I trust that you will share our concerns over the preparations by counsel and the legal costs ensued.)

Konrad

Konrad Chan
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From: "Meredith, Heather L." <HMEREDITH@MCCARTHY.CA>
 To: "KChan@jsitsp.com" <KChan@jsitsp.com>
 Cc: Caitlin Fell <cfell@reconllp.com>, "dnickel@jsitsp.com" <dnickel@jsitsp.com>, "C. Ian Ross (ianross@bell.net)" <ianross@bell.net>, JONATHAN GRANT <jonathan_grant13@rogers.com>, "Lui, Mitchell" <mnlui@mccarthy.ca>, "Bishop, Paul" <Paul.Bishop@fticonsulting.com>
 Date: 01/31/25 04:11 PM
 Subject: RE: [EXT] Your Voicemail [MT-MTDOCS.FID2642510]

Konrad,

The purpose of my voicemail was to suggest that we speak to try to find a solution, though it does increasingly appear that we will need to involve the Monitor and the Court. I also asked if you would provide the contact details for your counsel. I will make myself available to speak with him before or after court. Can you please advise your availability to speak and provide your counsel's contact details as requested.



Heather Meredith
 Partner | Associée
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 C: 416-725-4453
 F: 416-868-0673
 E: hmeredith@mccarthy.ca

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From: KChan@jsitsp.com <KChan@jsitsp.com>
Sent: Friday, January 31, 2025 8:52 AM
To: Meredith, Heather L. <HMEREDITH@MCCARTHY.CA>
Cc: Caitlin Fell <cfell@reconllp.com>; dnickel@jsitsp.com; C. Ian Ross (ianross@bell.net) <ianross@bell.net>; JONATHAN GRANT <jonathan_grant13@rogers.com>; Lui, Mitchell <mnlui@mccarthy.ca>; Bishop, Paul <Paul.Bishop@fticonsulting.com>
Subject: [EXT] Your Voicemail

Heather,

Thank you for your voicemail.

We will share with counsel your plan to involve the Monitor and Court.

Konrad

Konrad Chan
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February 11, 2025

**BY EMAIL
PRIVATE & CONFIDENTIAL**

KMB LAW
900 - 3 Robert Speck Parkway
Mississauga, ON L4Z 2G5

Attn: Mr. Justin Chan - jchan@kmblaw.com

Dear Sir,

**Re: Growthworks WV Management Ltd. v. GrowthWorks Canadian Fund Ltd.
Court File No.: CV-10279-00CL
Our File No.: 00033**

We represent FTI Consulting Canada Inc. in its capacity as Monitor (the “**Monitor**”) of GrowthWorks Canadian Fund LTD. (the “**Fund**”) in relation to the Fund’s *Companies’ Creditors Arrangement Act* (“**CCAA**”) proceedings. We have been copied on the recent email exchanges between you and counsel to the Fund as well as the communications between Konrad Chan and counsel to the Fund in which counsel to the Fund, among other things, requested a copy of the current Fund shareholder register and all related Fund shareholder and other information in a readable and otherwise fully accessible and readily useable format (collectively, the “**Fund Register**”) by January 31, 2025.

We have been advised that The Investment Administration Solution Inc. (“**IAS**”) is not willing to sign the Wind-Up Services Addendum to the existing Investment Administration Services Agreement dated January 6, 2015 between the Fund and IAS (the “**Existing Agreement**”) in the form of the draft Addendum provided to you by counsel to the Fund (the “**Fund Proposal**”) that IAS has not provided the Fund Register as requested, and that IAS is now purporting to terminate the Existing Agreement notwithstanding the ongoing stay of proceedings in the CCAA proceedings of the Fund.

It also appears that IAS has not responded to repeated requests for a discussion or in-person meeting and that, while discussions between you and counsel to the Fund appeared to make some progress, you have now advised that your instructions relate only to responding to the motion and you “have no part in determining the relief being sought under that motion,” which the Monitor understands to mean that you do not have instructions to negotiate a resolution in respect of the relief sought.

Fund Register

Pursuant to the Initial Order, the Fund Register constitutes “Property” of the Fund (as defined below) and “Confidential Information” (as defined in the Existing Agreement), which IAS acknowledged at section 8 of the Existing Agreement “is, and shall remain and shall be the exclusive property of [the Fund].” The Fund Register is required to prepare for and complete the distribution and dissolution of the Fund, as authorized by the Court on December 18, 2024, including the engagement of any alternate service provider, and that IAS is therefore required to permit the Monitor “full and complete” access to the Fund Register in accordance with the existing orders of the CCAA Court.

In that regard, please find attached a copy of two orders of the Ontario Superior Court of Justice in the CCAA proceedings of the Fund:

1. The Initial Order granting CCAA relief in respect of the Fund, dated October 1, 2013 (as amended and restated, the “**Initial Order**”). Please have regard in particular to subparagraph 27(f) as well as paragraphs 4, 18 and 26; and
2. The most recent December 18, 2024 order (the “**Discharge and Dissolution Order**”) of the Court requested in your email, which approved a form of the Fund Proposal and which we understand was previously provided to IAS by Fund counsel.

In light of the failure of IAS to produce the Fund Register as requested, the Monitor intends to seek a further order from the CCAA Court to compel such access and related relief for failure to comply with the existing CCAA Orders. While counsel to the Fund indicated that they would bring a motion on February 14, 2025, we have consulted with them and this motion will instead be brought by the Monitor. The Monitor will provide a short additional window for IAS to respond given that you are currently on vacation until February 12, 2025. However, if IAS does not provide a substantive response by February 14, 2025, the Monitor intends to deliver its motion materials on February 17, 2025 seeking full and complete access to the Fund Register.

Purported Termination of Existing Agreement

In an email of today’s date to Mr. Ian Ross, Konrad Chan of IAS took the position that the Fund was in breach of the Existing Agreement and purported to terminate the Existing Agreement. Please refer to sections 15, 17 and 18 of the attached Initial Order, which provide a broad stay of proceedings and prohibition against terminating contracts with the Fund during the stay period except with written consent of the Fund and the Monitor or leave of the Court. If IAS is of the view that there has been a breach of the agreement or that amounts are not being paid by the Fund to IAS as required, we welcome a discussion in that regard and that may also be raised with the Court in any lift stay motion by IAS. However, the notification is not presently effective to terminate the Existing Agreement.

The Monitor also notes that section 12(d) of the Existing Agreement provides for the immediate return or certificate of destruction (at the Fund’s election) of all Confidential Information of the Fund and other related documentation in IAS possession or control, or in the possession or control

of any of IAS's employees and/or contractors upon termination of the Existing Agreement. The Fund has clearly communicated that it elects to have all such information returned to it and there is no provision for additional fees for the return of such information in accordance with the terms of the Existing Agreement. Please confirm that if the Existing Agreement is terminated, the Fund Register will be returned immediately as required.

Questions Raised

With respect to the questions posed to Fund counsel in your letter dated February 5, 2025, which we understand you have already discussed with Fund counsel, we note that the Monitor is consulting with Fund counsel with respect to next steps regarding the Existing Agreement and the invoices provided. At this stage, the Monitor is seeking full and complete access to the Fund Register as set out above. The Monitor is not seeking any proprietary information of IAS, nor does it require production of the Fund Register in the IAS proprietary system. It requires all information contained in the Fund Register initially or subsequently provided to IAS by or on behalf of the Fund, its former manager or any shareholder, including the data in the register to complete the distribution steps and other services outlined in IAS's wind-up services proposal to the Fund. The Fund Register was delivered to IAS in a readable format and the Monitor requires that it receive the updated Fund Register, which IAS has been paid to keep updated, in a similarly readable format such as a Microsoft Excel Spreadsheet.

There is some urgency to finalize these wind-up services arrangements given that the Fund is moving forward with final arrangements to provide for the Distributions (as defined in the Discharge and Dissolution Order) and winding-up of the Fund. Any delay in this process will not only be materially prejudicial to the Fund's shareholders who are poised to receive a Distribution but will also cause the fund to incur additional administrative costs from any delay.

In all of these circumstances, we ask that you reconsider your position in respect of the Fund Proposal. If this is not acceptable to IAS, then we ask that you promptly provide the Fund Register to the Monitor as set out above. Failing this, as mentioned above, the Monitor intends to deliver motion materials for a motion to compel full and complete access to the Fund Property in the possession of IAS.

Should you wish to discuss the Fund Proposal, please contact Fund counsel directly.

Yours truly,

RECONSTRUCT LLP



Caitlin E. Fell
CF/lr

cc. Konrad Chan, KChan@jsitsp.com - *The Investment Administration Solution Inc.*
Paul bishop, Paul.Bishop@fticonsulting.com - *FTI Consulting.*
Heather Meredith, hmeredith@mccarthy.ca - *McCarthy Tetrault LLP.*

Court File No.: CV-13-10279-OOCL

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

THE HONOURABLE MADAME	)	TUESDAY, THE 29 TH
)	
JUSTICE MESBUR	)	DAY OF OCTOBER, 2013

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



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

ORDER

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

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

~ "counsel for Roseway," *den*

SERVICE

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

STAY EXTENSION

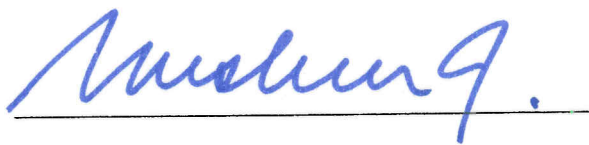
2. THIS COURT ORDERS that the Stay Period is hereby extended until and including January 15, 2014.

MONITOR'S ACTIVITIES AND REPORT

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

AMENDED AND RESTATED INITIAL ORDER

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



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



OCT 29 2013

SCHEDULE "A" – AMENDED AND RESTATED INITIAL ORDER

Court File No.: CV-13-10279-OOCL

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

THE HONOURABLE MR.	)	TUESDAY, THE 1 ST
)	
JUSTICE NEWBOULD	)	DAY OF OCTOBER, 2013

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

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

AMENDED AND RESTATED INITIAL ORDER

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

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

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

SERVICE

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

APPLICATION

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

PLAN OF ARRANGEMENT

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

POSSESSION OF PROPERTY AND OPERATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

RESTRUCTURING

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

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

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

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

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

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

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

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

NO EXERCISE OF RIGHTS OR REMEDIES

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

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

NO INTERFERENCE WITH RIGHTS

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

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

CONTINUATION OF SERVICES

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

NON-DEROGATION OF RIGHTS

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

CRITICAL SUPPLIERS

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

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

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

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

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

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

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

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

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

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

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

APPOINTMENT OF MONITOR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

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

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

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

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

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

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

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

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

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

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

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

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

SERVICE AND NOTICE

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

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

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

GENERAL

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

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

49. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative

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

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

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

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

SCHEDULE "1" – CRITICAL TRANSITION SERVICES AGREEMENT

CRITICAL TRANSITION SERVICES AGREEMENT

This agreement is made as of the 15th day of October, 2013.

BETWEEN

GROWTHWORKS CANADIAN FUND LTD.
(the "Fund")

OF THE FIRST PART

and

GROWTHWORKS WV MANAGEMENT LTD.
(the "Manager")

OF THE SECOND PART

WHEREAS the Fund and the Manager were parties to an amended and restated management agreement dated July 15, 2006 (the "**Management Agreement**") in relation to which the Fund delivered a termination notice on September 30, 2013 (the "**Notice**");

AND WHEREAS the Manager disputes the validity of the Notice;

AND WHEREAS sections 8.4, 8.5 and 8.6 of the Management Agreement (the "**Transition Provisions**") provide, among other things, that the Manager is to (i) deliver to the Fund all records, including electronic records or data in a form accessible to the Fund, of or relating to the affairs of the Fund in its custody, possession or control, and (ii) use reasonable commercial efforts to co-operate with the Fund and any successor manager to facilitate an orderly transition such that the Services (as defined in the Management Agreement) will be provided to the Fund by the successor without delay or compromise of service; and that the Fund will pay to the Manager all reasonable transfer, wind-down and transition costs incurred by or put to the Manager as a result of having to transition operations to a successor manager;

AND WHEREAS the Fund applied for and obtained an order under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c.C-36, as amended (the "**CCAA**") on October 1, 2013 (the "**Initial Order**"), which, among other things, appointed FTI Consulting Canada Inc. as the Court-appointed monitor (the "**Monitor**");

AND WHEREAS the Fund's application to have the Manager declared a critical supplier of transition services (the "**Critical Transition Services**") was adjourned pending discussions among the parties;

AND WHEREAS, without prejudice to the parties' respective rights under the Management Agreement, and/or the parties' claims as they relate to the Notice, the parties hereto have agreed on the scope of the Critical Transition Services to be provided as critical supplies under the Initial Order and the payments to be made by the Fund to the Manager in relation thereto;

NOW THEREFORE in consideration of the promises and the agreements herein contained, and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the parties hereto), it is agreed as follows:

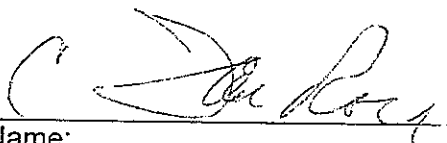
1. This agreement and the performance of the parties' obligations under this agreement, are without prejudice to claims that arose prior to the Notice and claims relating to the Notice and the Manager's conduct under the Management Agreement (the "**Pre-Filing Dispute**"). For greater clarity, nothing herein shall prevent the parties from exercising their set-off rights in any action, proceeding, litigation or claim regarding the Pre-Filing Dispute.
2. The Critical Transitional Services to be provided by the Manager to the Fund pursuant to the Management Agreement shall include the following:
 - (a) Assistance with the Fund's ongoing audit and valuation for fiscal 2013 as required by KPMG, which includes signing the management representation letter in favour of the auditor and assistance of certain employees of the Manager to complete and provide working papers to KPMG, answer questions, provide follow up information, and otherwise assist KPMG, as required.
 - (b) Providing to the Fund copies of any agreements, retainer letters or other paperwork, if any, documenting the relationship with any third party vendors used or retained by the Manager in relation to the services provided by the Manager to the Fund under the Management Agreement as well as the names and contact details for such third party vendors. In addition, with respect to the software provider, Just Systems, providing access to the data in a form that is accessible in their system.
 - (c) Attendance by the Manager's employees Tim Lee, Peter Clark, Diane Vaselenak and Pat Brady (collectively, the "**Nominee Directors**") at meetings in relation to the issue of the Fund's representation on boards of Portfolio Companies (as defined in the affidavit of Ian Ross, dated September 30, 2013) during which meetings the Nominee Directors will be expected to provide a verbal outline of the issues and relevant information relating to the Fund's interest in each of the Portfolio Companies.
 - (d) Providing information to the Fund based on reasonable requests made by the Fund.
 - (e) The Nominee Directors will resign from their respective positions on the boards of the Portfolio Companies by no later than October 31, 2013, unless such date is extended by mutual agreement.
3. The Fund will pay the Manager for the Critical Transition Services on the following basis:
 - (a) The Manager will provide estimates of its costs related to the Critical Transition Services to the Fund. The costs will be calculated as the sum of the time expected to be spent by each employee performing Critical Transitional Services at an hourly rate equal to the actual annual salary of the individual employee, plus benefits and other employment costs related to that person, divided by 1840 working hours per year.

- (b) The Fund and the Monitor will review the cost estimates provided by the Manager in relation to the Critical Transition Services to determine if they are reasonable. The Fund acknowledges that the estimate provided by the Manager on October 11, 2013 was reviewed by the Monitor and is reasonable.
 - (c) The Fund will include payment of these costs in a revised cash flow projection, which will be adjusted as necessary to the extent the scope of the Critical Transition Services is modified.
 - (d) The Manager's employees will keep detailed timesheets with respect to the Critical Transition Services and the Manager will invoice the Fund weekly for the cost of these Critical Transition Services, which invoice will include copies of the detailed timesheets.
 - (e) The Monitor and Fund will review the invoices to ensure the services invoiced are consistent with the Critical Transition Services agreed upon, that the time spent is reasonable, and that the Critical Transition Services were performed by an appropriate person.
 - (f) The Fund will pay the Manager within two weeks of receiving an invoice, as set out above, provided the invoice meets the reasonability requirement in step (e). If it does not meet that requirement, the Fund and Manager will use best efforts to address the dispute about the invoice quickly, with the guidance and assistance from the Monitor and, if required, by the Court in the CCAA proceedings of the Fund.
 - (g) On or before October 29, 2013, the Fund shall obtain an order substantially in the form attached hereto as **Schedule '1'**.
4. This agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
5. This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this agreement to produce or account for more than one such counterpart. Transmission of a copy of an executed signature page of this agreement by any party hereto to each other party hereto by facsimile transmission or e-mail in pdf format, shall be as effective as delivery to the other parties hereto of a manually executed counterpart hereof.

IN WITNESS WHEREOF the parties have executed this Critical Transition Services Agreement as of the date set out at the commencement hereof.

GROWTHWORKS CANADIAN FUND LTD.

Per



Name:

Title: *INTERIM CEO*

Per:

Name:

Title:

- 5 -

GROWTHWORKS WV MANAGEMENT LTD.

Per



Name:

David Levi

Title:

President & CEO

Per:

Name:

Title:

- 6 -

SCHEDULE "1" - ORDER

Court File No.: CV-13-10279-OOCL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE	) TUESDAY, THE 29 TH
)
JUSTICE	) DAY OF OCTOBER, 2013

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

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

ORDER

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

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

SERVICE

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

STAY EXTENSION

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

MONITOR'S ACTIVITIES AND REPORT

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

AMENDED AND RESTATED INITIAL ORDER

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

SCHEDULE "A" – AMENDED AND RESTATED INITIAL ORDER

Court File No.: CV-13-10279-OOCL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.	)	TUESDAY, THE 1 ST
)	
JUSTICE NEWBOULD	)	DAY OF OCTOBER, 2013

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

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

AMENDED AND RESTATED INITIAL ORDER

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

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

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

SERVICE

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

APPLICATION

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

PLAN OF ARRANGEMENT

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

POSSESSION OF PROPERTY AND OPERATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

RESTRUCTURING

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

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

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

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

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

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

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

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

NO EXERCISE OF RIGHTS OR REMEDIES

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

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

NO INTERFERENCE WITH RIGHTS

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

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

CONTINUATION OF SERVICES

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

NON-DEROGATION OF RIGHTS

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

CRITICAL SUPPLIERS

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

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

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

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

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

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

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

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

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

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

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

APPOINTMENT OF MONITOR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

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

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

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

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

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

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

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

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

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

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

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

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

SERVICE AND NOTICE

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

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

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

GENERAL

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

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

49. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative

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

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

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

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

SCHEDULE "1" – CRITICAL TRANSITION SERVICES AGREEMENT

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

Court File No: CV-13-10279-OOCL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

AMENDED AND RESTATED INITIAL ORDER

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Lawyers for the Applicant
#12547919

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

Court File No: CV-13-10279-OOCL

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

Proceeding commenced at Toronto

**ORDER
(STAY EXTENSION AND AMENDING AND
RESTATING INITIAL ORDER)**

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Lawyers for the Applicant
#12883346



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 Hailey 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

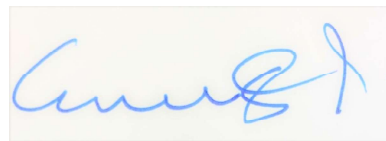
42. **THIS COURT ORDERS** that notwithstanding any other provision of this Order, the Applicant and the Monitor shall each remain entitled to seek advice, directions or assistance from the Court in respect of any matters arising from or in relation to the matters set out herein.

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:

Electronically issued / Délivré par voie électronique : 19-Dec-2024
 Toronto Superior Court of Justice / Cour supérieure de justice

RANGEMENT ACT, R.S.C. 1985, c. 19 Court File No./N° du dossier du greffe : CV-13-00010279-00CL

ORDER AMENDING AND RESTATING THE 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

McCarthy Tétrault LLP
 Suite 5300, TD Bank Tower
 66 Wellington Street West
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Geoff R. Hall LSO#: 347100
 Tel: 416-601-7856
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 E-mail: hmeredith@mccarthy.ca

Trevor Courtis LSO#: 67715A
 Tel: 416-601-7643
 E-mail: tcourtis@mccarthy.ca

Lawyers for the Applicant,
 GrowthWorks Canadian Fund Ltd.

From: KChan@jsitsp.com <KChan@jsitsp.com>

Sent: February 12, 2025 3:48 PM

To: Caitlin Fell <cfell@reconllp.com>

Cc: C. Ian Ross (ianross@bell.net) <ianross@bell.net>; hmeredith@mccarthy.ca;
Paul.Bishop@fticonsulting.com; jchan@kmblaw.com

Subject: Your Letter

Good day,

Obligation To Pay

We noted in para. 18 of Justice Newbould's Order dated October 1, 2013 clearly states that the Applicant's entitlement to receive such services is based on the condition that the same are paid for by the Applicant in accordance with normal payment practices or such other practices agreed upon by the supplier and each of the Applicant and Monitor.

Therefore, so long as IAS follows the Agreement, amended as per any Addendums or Amendments, the Applicant must pay invoices as they come due. This includes the two invoices that remain unpaid. (Late payment interest could have been avoided if The Fund had paid by February 6, 2025.)

The Applicant also agreed to the terms of the Agreement and thereby agreed to the acceleration clause that has been triggered by non-payment of the two invoices.

Request Specifications

There was and still is confusion as to what is "a copy of the current Fund shareholder register and all related Fund shareholder and other information in a readable and otherwise fully accessible and readily useable format (collectively, the "Fund Register") by January 31, 2025". In a nutshell, the requestor must provide the specifications (the "Specs") of the output deliverable of the Fund Register such that the requestee may comply with accordingly.

More importantly, The Fund must pay IAS to produce the abovementioned Fund Register for which the Specs cannot be in the form of non-specific description as "in a readable and otherwise fully accessible and readily useable format". (It would be useful to reach out to consultants for assistance on same.

Counsel for The Fund also mentioned that she was considering other administrators.)

The export of any data is also outside of the services in Schedule "A" to the Agreement and therefore must count as additional work which will incur further fees.

The engagement of KMB Law at this time is for the Motion promised by Counsel of The Fund.

We look forward to receiving payment of the amount owed by February 28, 2025 before further late payment interest applies.

Yours truly,

The Investment Administration Solution Inc.

Konrad Chan

From: Caitlin Fell <cfell@reconllp.com>
Sent: Tuesday, February 18, 2025 9:05 AM
To: KChan@jsitsp.com
Cc: Paul.Bishop@fticonsulting.com; jchan@kmblaw.com
Subject: RE: Your Letter

Hi Justin,

We are counsel to FTI Consulting Canada Inc. in its capacity as Monitor of Growthworks Canadian Fund Ltd.

We are in the process of canvassing for court time with the Commercial List for a motion to compel IAS to provide to the Monitor and the Fund, its updated shareholder register. Can you advise what dates you are not available in early March?

We will be serving our Notice of Motion today. Will you be acting as counsel for IAS and are therefore able to accept service?

With respect to the below, we understand there is a dispute concerning outstanding invoices that IAS asserts is owing. The Monitor is reviewing whether such invoices reflect services actually provided and is confirming that they are due and owing. IAS will be paid for services it has provided in accordance with its agreement with the Fund and the Monitor will revert back to you on this issue.

Best,

Caitlin

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

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

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

**THE THIRTY-SECOND REPORT OF
THE MONITOR**

RECONSTRUCT LLP

Royal Bank Plaza, South Tower
200 Bay Street
Suite 2305, P.O. Box 120
Toronto, ON M5J 2J3

Caitlin Fell LSO No. 60091H
cfell@reconllp.com
Tel: 416.613.8282
Fax: 416.613.8290

**Lawyer for the Monitor,
FTI Consulting Canada Inc., in its capacity
as Court-appointed Monitor**

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

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

THE HONOURABLE	)	TUESDAY, THE 4TH
)	
JUSTICE OSBORNE	)	DAY OF MARCH, 2025

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.

ORDER

THIS MOTION, made by FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor of Growthworks Canadian Fund Ltd. (the “**Applicant**” or the “**Fund**”) (“**FTI**” or the “**Monitor**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) for an Access Order:

- (a) 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;
- (b) compelling The Investment Administration Solution Inc. (“**IAS**”) to promptly turn over the Shareholder Register Information (the “**Shareholder Register**”) and/or to provide full and complete access to it, to the Fund and the Monitor; and,
- (c) 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 Monitor, including the Monitor’s Thirty-Second

Report (the “**32nd 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 of ●, sworn ●, filed:

SERVICE & NOTICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record and Thirty-Second 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 Thirty-Second Report 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 date October 1, 2013; (ii) the Amended and Restated Discharge and Dissolution Order dated December 18, 2024; and (iii) the 32nd Report.

ACCESS TO PROPERTY OF THE FUND

4. **THIS COURT ORDERS** that IAS shall provide all data in its possession relating to the Fund’s Shareholder Register to the Applicant and the Monitor in a readable format promptly upon the effective date of this Order.

ORDERS IN THE CCAA PROCEEDINGS

5. **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.

APPROVAL OF MONITOR ACTIVITIES

6. **THIS COURT ORDERS AND DECLARES** that the 32nd Report and the activities and

conduct of the Monitor as described therein be and are hereby ratified and approved.

7. **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, including allowing the Monitor full access to the Shareholder Register Information.

NOTICE

8. **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.

9. **THIS COURT ORDERS** that the measures in paragraph 10 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

10. **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.

11. **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.

12. **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.

13. **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.

14. **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.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

ORDER

RECONSTRUCT LLP

Royal Bank Plaza, South Tower
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Lawyer for the Monitor,
FTI Consulting Canada Inc.

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.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

MOTION RECORD OF THE MONITOR
(returnable March 4, 2025)

RECONSTRUCT LLP

Royal Bank Plaza, South Tower
200 Bay Street
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