

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.**

**TWENTY-SIXTH REPORT OF  
FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR**

September 18, 2020

**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

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GROWTHWORKS CANADIAN FUND LTD.

**TWENTY-SIXTH 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”) by the Ontario Superior Court (Commercial List) (the “**Court**”) was granted.
2. The Initial Order, among other things, granted a stay of proceedings against the Fund, which stay of proceedings was most recently extended until September 30, 2020 (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**”.

## **BACKGROUND**

4. The Fund is a labour sponsored venture capital fund that held a diversified portfolio (the “**Portfolio**”) consisting primarily of investments made in small and medium-sized Canadian businesses (each a “**Portfolio Company**”).

5. The Fund was formed in 1988 with the investment objective of achieving long-term appreciation for its Class A shareholders, who principally comprise retail investors.

6. At the commencement of these CCAA proceedings, approximately \$25.7 million was outstanding and owing to Roseway Capital S.a.r.l, (“**Roseway**”), the Fund’s sole secured creditor.

7. In or around the beginning of 2016, Roseway was paid out in full by the Fund, leaving only unsecured creditors and shareholder claims.

8. Following payment to the Fund’s sole secured creditor, the Fund spent the better part of these proceedings resolving protracted and significant litigation with the Fund’s former manager, GrowthWorks WV Management Ltd (the “**Former Manager**”). The litigation concluded with a decision rendered by the Court against the Former Manager and a cost endorsement issued in August 2019 awarding the Fund costs in the amount of \$400,000.

9. In addition to resolving the claim of the Former Manager, as explained in greater detail below, the Fund has continued with the divestment of the Fund’s Portfolio as and when market conditions have been favourable, or circumstances warranted a sale at the time.

## **PURPOSE OF THIS REPORT**

10. The purpose of this Twenty-Sixth report of the Monitor is to provide an update to the Court and provide the Monitor’s comments on, *inter alia*:

- (a) the Fund’s enforcement of the cost award against the Former Manager;
- (b) the status of the Fund’s Portfolio and realizations of the Portfolio since December 11, 2019;

- (c) the Fund's request for an approval and vesting order with respect to a sale of certain shares and debt with respect to Aizan Technologies Inc. ("**Aizan**"), a Portfolio Company;
- (d) the Fund's receipts and disbursements for the period from December 11, 2019 to September 11, 2020, with a variance analysis from the prior cash flow projections;
- (e) the Fund's cash flow projections for the period from September 12, 2020 to June 30, 2021
- (f) next steps for the Fund in these CCAA Proceedings; and
- (g) the Fund's request for an extension of the Stay of Proceedings until June 30, 2021.

#### **TERMS OF REFERENCE**

11. In preparing this report, the Monitor has relied upon unaudited financial information, other information available to the Monitor, where appropriate the Applicant's books and records and discussions with various parties and the Fund's investment and other advisors.

12. Future oriented financial information reported or relied on in preparing this report is based on management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.

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

14. Capitalized terms used, but not defined, herein shall have the meanings ascribed to them in the affidavit of Ian Ross, sworn September 16, 2020 and filed (the "**Fund Affidavit**").

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

## THE CLAIM OF THE FORMER MANAGER

16. Prior to the commencement of these CCAA Proceedings, the Fund's day-to-day operations with respect to the Portfolio were delegated to the Former Manager. On September 30, 2013, the Fund terminated the management agreement between the Former Manager and the Fund (the "**Management Agreement**").

17. The termination of the Management Agreement formed the basis of a significant claim filed against the Fund in the amount of \$18 million and a counterclaim filed by the Fund against the Former Manager (the "**Former Manager Litigation**").

18. Following completion of the trial in respect of the Former Manager Litigation, the Court dismissed the Former Manager's claim for damages. With respect to the Fund's counter-claim against the Former Manager, the Court also dismissed this claim. However, the Court awarded costs to the Fund in the amount of \$400,000 in respect of certain other claims made by the Fund in relation to the Former Manager's other breaches of its obligations under the Management Agreement (the "**Costs Award**").

19. To date, the Fund has received \$229,000 in respect of the Costs Award, which funds (plus interest) were previously held by the Fund as security for costs.

20. Since September 2019, the Fund has, on many occasions, sought payment from the Former Manager in respect of the remaining amounts owing by the Former Manager on account of the Costs Award (approximately \$171,000) (the "**Cost Award Balance**"), however no payment has been received.

21. On Friday September 11, 2020, the Fund and the Former Manager reached an agreement (the "**Tripartite Agreement**") with GrowthWorks Commercialization Fund Ltd. (the "**Commercialization Fund**"), another fund that was previously managed by the Former Manager which is currently in the process of being liquidated and wound up. The Tripartite Agreement provides that the amount of the Cost Award Balance will be held back by the Commercialization Fund from dissolution proceeds that would otherwise be paid to the Former Manager, and the Commercialization Fund would directly remit to the Fund, on behalf of the Former Manager, the amount of the Cost Award Balance.

## CURRENT STATUS OF THE PORTFOLIO

22. At the commencement of these CCAA Proceedings, the Fund's Portfolio consisted of investments in approximately 71 companies. These investments principally comprised minority equity and debt holdings in private software, technology and biotech companies.

23. Over the course of the CCAA proceedings (approximately seven years), the Fund has undertaken a methodical divestiture of its Portfolio in order to maximize recovery for stakeholders. The timing of the divestment of the Portfolio has been critically important. The Fund has focused on selling the Portfolio investments at opportune times and thereby avoided a fire sale of its assets, generating considerable returns and maximizing recoveries for stakeholders. The Fund currently holds 16 investments. However, the Monitor has been advised by the Fund and its investment manager, Crimson Capital Inc. (the "**Investment Advisor**"), that 7 of the 16 investments have negligible value.

24. While the Fund has not undertaken a formal valuation of its remaining Portfolio, the Investment Advisor estimates that the remaining realizable value of the Portfolio is between approximately \$14 million and \$25 million. The Monitor notes that this estimate is subject to variation as to timing of disposition and market prices.

25. The Monitor, on behalf of the Fund, is currently holding approximately US\$3.51 million and CDN\$384,000 in cash.

26. As mentioned above, the divestment of the Fund's remaining Portfolio depends on the existence of favourable market conditions and value enhancing events to occur by a Portfolio Company, such as a regulatory approval of innovative devices. Therefore, the exact timing of the disposition of the remainder of the Portfolio was and is still not certain. Moreover, as the Fund does not hold a controlling position in any of the Portfolio investments, it is not able to force a sale without the consent of a Portfolio Company's other shareholders.

27. In view of the foregoing, the Investment Advisor, with the oversight of the board of directors (the "**Board**") and the Monitor, continues to balance the necessity for favourable market conditions to dispose of the Portfolio (in order to maximize value), with the need to efficiently realize on the Fund's investments in a timely manner for distribution to stakeholders.

## **DISPOSITION OF INTEREST IN A PORTFOLIO COMPANY- AIZAN**

28. The Fund's Portfolio includes 3,601,440 Class A Preferred Shares and 900,360 Class B Shares (the "**Aizan Shares**") in Aizan. Aizan is a cloud communications provider based in Toronto, Ontario.

29. In addition to holding shares in Aizan, the Fund also holds debt through a Series "D" Secured Convertible Debenture dated March 31, 2010 in the principal amount of \$625,000 and a Class "E" Secured Convertible Debenture dated April 21, 2011 in the principal amount of \$125,000 (the "**Aizan Debt**").

30. On September 11, 2020, subject to Court approval, the Fund, Aizan and 1324344 Ontario Inc. (the "**Purchaser**") entered into a purchase agreement (the "**Purchase Agreement**") pursuant to which the Fund agreed to sell the Aizan Shares and the Aizan Debt to the Purchaser. A copy of the unredacted Purchase Agreement, including the purchase price for the Aizan Shares and the Aizan Debt is attached as Confidential Exhibit "F" to the Fund Affidavit.

31. The proposed relevant terms of the Purchase Agreement are as follows:

(a) *Increase in Purchase Price on the Occurrence of Certain Events*

- upon a resale by the Purchaser of the Aizan Shares or Aizan Debt, the Purchaser shall pay to the Fund an amount, if any, of the proceeds received from such resale that exceed the purchase price.
- in the event there is: (i) a public offering of Aizan; (ii) a sale of a majority of the shares of Aizan; or (iii) a sale of the assets of Aizan and, in each case the enterprise value of Aizan is equal to or greater than a prescribed level, then Aizan shall pay the Fund a set percentage of the Fund's proportionate share of the proceeds from such sale transactions.

- (b) *Security* – as security for the obligations in respect to any purchase price adjustment contemplated above, the Purchaser granted to the Fund a security interest in the Aizan Shares and Aizan Debt.
- (c) *Conditions* - The closing of the transactions contemplated in the Purchase Agreement is conditional upon typical conditions of a transaction of this nature as well as the issuance of an approval and vesting order by the Court and the delivery by the Monitor of the Monitor's Certificate.

32. The Aizan Shares were acquired by the Fund in 2010. As set out in further detail above, throughout the CCAA proceedings, and since 2017, the Fund's Investment Advisor has sought to market and divest shares comprising the Portfolio when market conditions were favourable. The Investment Advisor accordingly has marketed the Aizan Shares for some time and the Monitor understands that the Fund and its Investment Advisor believe a sale of the Aizan Shares and Aizan Debt at this time, is warranted and reasonable.

33. The Monitor understands that the sale of the Aizan Shares and the Aizan Debt to the Purchaser does not constitute a sale to a related party pursuant to section 36(4) of the CCAA.

34. Further, the Monitor is of the view that this Court should approve the sale of the Aizan Shares and the Aizan Debt on the basis that:

- (a) given the lengthy time to market these assets, the process leading to the sale was lengthy and reasonable in the circumstances;
- (b) the monitor approved the process leading to the sale, namely the engagement by the Fund of the Investment Advisor in 2016 to market and dispose of the Portfolio, including the Aizan Shares;
- (c) the Monitor is of the view that the sale would be beneficial to creditors and stakeholders of the Fund than a sale or disposition in a bankruptcy; and
- (d) the consideration to be received by the Fund for the Aizan Shares and Aizan Debt is reasonable and fair, taking into account their market value.

**ACTUAL RECEIPTS AND DISBURSEMENTS OF THE FUND FOR THE PERIOD FROM DECEMBER 11, 2019 to SEPTEMBER 11, 2020**

35. The Fund’s actual net cash flow for the period from December 11, 2019 to September 11, 2020 (the “**Current Period**”) together with an explanation of key variances as compared to the forecast attached to the Monitor’s Twenty-Fifth Report (the “**Prior Forecast**”) is set out below.

**Growthworks Canadian Fund Ltd.**

**Forecast v. Actual**

Actuals as at September 11, 2020

(CAD in thousands)	Forecast	Actual	Variance
<b>Beginning Cash Balance</b>	<b>5,404</b>	<b>5,404</b>	<b>-</b>
<b>Cash Flow from Operations</b>			
Receipts	10,570	104	(10,466)
Fund Legal Fees - General	(139)	(32)	107
Fund Legal Fees - Litigation	(45)	(36)	9
D&O Insurance	-	(8)	(8)
Back Office and Administrative	(130)	(88)	42
CEO and Board Fees	(162)	(116)	46
Legal Fees re: Transactions	(110)	-	110
Other Expenses and Contingency	(84)	(33)	51
Realized FX Gain (Loss)	-	(16)	(16)
<b>Operating Cash Flows</b>	<b>9,900</b>	<b>(227)</b>	<b>(10,126)</b>
Monitor Fees	(116)	(52)	64
Counsel to the Monitor Fees	(38)	(8)	30
IAA Disbursements	(954)	(99)	855
<b>Projected Net Cash Flow</b>	<b>8,792</b>	<b>(386)</b>	<b>(9,177)</b>
<b>Ending Cash Balance</b>	<b>14,196</b>	<b>5,018</b>	<b>(9,177)</b>

36. The negative variance in receipts is caused by the delay in the occurrence of forecast Portfolio Company divestments. The monetization of these investments is anticipated to occur at a later date, although timing and amount realized are uncertain at this time. As a result of the delay of these divestments, there is a positive variance in the disbursements related to disposition of the investments (IAA Disbursements and Legal Fees re: Transactions), as these disbursements include provisions for fees payable on investment exits and for legal fees to close these transactions.

37. The positive variance in Fund general legal and litigation fees is due to lower than anticipated litigation costs. The positive variance in CEO and Board Fees are primarily due to a reduction in the number of meetings held. The positive variance in back office and

administrative, other expenses and contingency, as well as Monitor’s Fees and Monitor’s Counsel Fees is due to ongoing efforts to minimize costs in administering the estate.

38. The negative variance in D&O insurance represents reimbursement of the cost of the insurance coverage required by the Investment Advisor as board member of investee companies, which costs were not anticipated in the previous forecast.

**THE FUND’S CASH FLOW FORECAST**

39. The Fund has prepared a cash flow forecast for the period from September 12, 2020 to June 30, 2020 (the “Forecast”). A copy of the Forecast is attached as Appendix “B”. The Forecast shows a closing balance of approximately \$12.7 million. The Forecast is summarized below:

(CAD in thousands)	
	Total
<b>Beginning Cash Balance</b>	<b>5,018</b>
<b>Cash Flow from Operations</b>	
Receipts	9,295
Fund Legal Fees - General	(199)
Fund Legal Fees - Litigation	(51)
Back Office and Administrative	(92)
CEO and Board Fees	(162)
Legal Fees re: Transactions	(142)
Other Expenses and Contingency	(97)
<b>Operating Cash Flows</b>	<b>8,552</b>
Monitor Fees	(130)
Counsel to the Monitor Fees	(43)
IAA Disbursements	(742)
<b>Projected Net Cash Flow</b>	<b>7,637</b>
<b>Ending Cash Balance</b>	<b>12,655</b>

40. It is anticipated that throughout the Forecast period, the Fund’s projected liquidity requirements will be met from cash currently on hand and future investment exits. It is anticipated that approximately \$9 million will be realized from investments during the proposed stay extension period, however, we note that timing and quantum of such receipts remain subject to change.

## **NEXT STEPS IN THE CCAA PROCEEDINGS**

### *General*

41. During the next proposed stay period, the Board, with the assistance of the Monitor, will continue to pursue an orderly liquidation of the remaining investments.

### *Claims Process*

42. As mentioned in the Twenty-Fifth Report of the Monitor, the Monitor, with the assistance of the Fund, must complete the pre-filing claims process previously approved by the Court on January 9, 2014 (the “**Claims Process Order**”).

43. Under the Claims Process Order, pre-filing claims against the Fund and the officers and directors of the Fund were solicited. However, as there was uncertainty at this time as to whether there would be recovery to unsecured creditors, the Monitor was not obligated to review or adjudicate these claims. Instead, the Monitor retained the discretion to review and adjudicate such claims if it appeared that there would be sufficient proceeds available for creditors to warrant the cost of doing so. During the proposed Stay Period (as defined herein), the Monitor will complete its review of pre-filing claims.

44. The Monitor has delayed commencing a post-filing claims process until such time that it is apparent that the Fund is nearing completion of the disposition of the remaining Portfolio. This has been done in order to avoid the potential for having to incur costs to complete two post filing claims processes in the event that there ended up being a significant period of time as between a post-filing claims process and completion of these CCAA Proceedings. During the next proposed stay period, the Monitor intends on commencing a post-filing claims process.

## **STAY EXTENSION**

45. The stay period currently expires on September 30, 2020 (the “**Stay Period**”) and the Fund is seeking an extension of the Stay of Proceedings to and including June 30, 2021.

46. The Monitor is supportive of the longer stay extension in order for the Fund to continue to preserve and maximize the value of the Fund's Portfolio, consisting primarily of illiquid assets, for the benefit of the Fund's stakeholders.

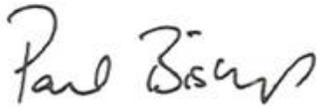
47. The Monitor is of the belief that stakeholders and creditors of the Fund would not be materially prejudiced by the extension of the Stay Period. The Monitor is also of the belief that the Fund has acted, and is acting, in good faith and with due diligence and that circumstances exist that warrant an extension of the stay to June 30, 2021.

The Monitor respectfully submits to the Court this Twenty-Sixth Report.

Dated this 18th day of September 2020.

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 that reads "Paul Bishop". The signature is written in a cursive, flowing style.

Paul Bishop  
Senior Managing Director

## APPENDIX "A"

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

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

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



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

**ORDER**

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

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

✓ "counsel for Roseway," *see*

**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**

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

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

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

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

**AMENDED AND RESTATED INITIAL ORDER**

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

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

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

## **SERVICE**

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

## **APPLICATION**

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

## **PLAN OF ARRANGEMENT**

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

## **POSSESSION OF PROPERTY AND OPERATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

### **RESTRUCTURING**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **CONTINUATION OF SERVICES**

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

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

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

## **CRITICAL SUPPLIERS**

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

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

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

## **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

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

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

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

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

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

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

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

#### **APPOINTMENT OF MONITOR**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **SERVICE AND NOTICE**

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

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

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

#### **GENERAL**

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

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

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

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

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

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

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

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## APPENDIX “B”

### Growthworks Canadian Fund Ltd.

#### APPLICANT'S EXTENDED 9 MONTH CASH FLOW FORECAST

(CAD in thousands)

Month Ending Forecast Month	30-Sep-20 0	31-Oct-20 1	30-Nov-20 2	31-Dec-20 3	31-Jan-21 4	28-Feb-21 5	31-Mar-21 6	30-Apr-21 7	31-May-21 8	30-Jun-21 9	Total
Beginning Cash Balance	5,018	4,835	5,291	5,224	5,451	5,356	9,593	9,505	9,438	9,453	5,018
<b>Cash Flow from Operations</b>											
Receipts	-	630	-	325	-	4,700	-	-	100	3,540	9,295
Fund Legal Fees - General	(23)	(57)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(40)	(199)
Fund Legal Fees - Litigation	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(51)
Back Office and Administrative	(2)	(7)	(7)	(7)	(35)	(7)	(7)	(7)	(7)	(7)	(92)
CEO and Board Fees	(29)	(8)	(8)	(29)	(8)	(8)	(29)	(8)	(8)	(29)	(162)
Legal Fees re: Transactions	(57)	(15)	-	(10)	-	(25)	-	-	(10)	(25)	(142)
Other Expenses and Contingency	(16)	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(9)	(97)
<b>Operating Cash Flows</b>	<b>(133)</b>	<b>530</b>	<b>(40)</b>	<b>254</b>	<b>(68)</b>	<b>4,635</b>	<b>(61)</b>	<b>(40)</b>	<b>50</b>	<b>3,425</b>	<b>8,552</b>
Monitor Fees	(28)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(11)	(130)
Counsel to the Monitor Fees	(9)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(43)
IAA Disbursements	(12)	(59)	(12)	(12)	(12)	(384)	(12)	(12)	(20)	(209)	(742)
<b>Projected Net Cash Flow</b>	<b>(183)</b>	<b>455</b>	<b>(67)</b>	<b>227</b>	<b>(95)</b>	<b>4,236</b>	<b>(88)</b>	<b>(67)</b>	<b>15</b>	<b>3,202</b>	<b>7,637</b>
<b>Ending Cash Balance</b>	<b>4,835</b>	<b>5,291</b>	<b>5,224</b>	<b>5,451</b>	<b>5,356</b>	<b>9,593</b>	<b>9,505</b>	<b>9,438</b>	<b>9,453</b>	<b>12,655</b>	<b>12,655</b>

**Notes:**

- [1] The purpose of this cash flow forecast is to determine the liquidity requirements of the Applicant during the forecast period.
- [2] Forecast Cash flow from operations assumptions are based on existing Accounts Payable.
- [3] Monitor and Monitor's Counsel Fees include professional fees associated with the CCAA Proceedings, the Applicant's restructuring efforts.  
Professional fee disbursement assumptions are based on budgeted time and expenses for the various legal and financial advisors expected to participate in the CCAA Proceedings.
- [4] The opening cash balance contains \$3,514,136 USD which is converted at the September 11, 2020 Bank of Canada rate of 1.3186 CAD/USD.
- [5] Forecast receipts are the result of anticipated proceeds from portfolio divestitures.

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

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

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

Proceeding commenced at Toronto

**THE TWENTY-SIXTH REPORT OF  
FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR**

**WEISZ FELL KOUR LLP**

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