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E GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

FSD CAUSE NO: OF 2025 ( )

IN THE MATTER OF THE COMPANIES ACT (2025 REVISION)

AND IN THE MATTER OF ICM SPC

WINDING UP PETITION

TO: The Grand Court of The Cayman Islands

The humble Petition of Phoenix Commodities PVT Ltd (in liquidation) (***Phoenix BVI***) and/or its liquidators (1) Ryan Paul Jarvis (***Mr Jarvis***) and (2) John Johnston (***Mr Johnston***) both of Deloitte Ltd (and solely in their capacities as the joint liquidators of the Phoenix BVI) (The ***Petitioners***) shows **THAT**:

A. The Petitioners seek an order for the winding up of ICM SPC (the ***Company***) pursuant to sections 92(d) and (e) of the Companies Act (2025 Revision) (the ***Companies Act***) on the grounds that it is unable to pay its debts and it is just and equitable that the Company be wound up.

The Company

1 The Company (registration number 167217) was incorporated on 9 May 2006 and has its registered office at Apex Fund Services (Cayman) Ltd, 3rd Floor, Citrus Grove Building, 106 Goring Avenue, PO Box 10085, George Town, Grand Cayman, KY1-1001, Cayman Islands.

2 The Company is a segregated portfolio company that is said to be constituted of two segregated portfolios. Ancile Special Opportunity and Recovery Fund Segregated Portfolio (***ASOR***) is a segregated portfolio of the Company that was established for the purposes of purchasing shares in Phoenix BVI. AF-KY A&SP WD Segregated Portfolio (***AF-KY***) is the second segregated portfolio and has interests, via beneficial ownership, in litigation in Ukraine, Slovakia, the Czech Republic, Brazil and the Ivory Coast.

3 The Petitioner, Phoenix BVI, was wound up by resolution of its members on 20 April 2020 and is currently in voluntary liquidation in the British Virgin Islands (***BVI***). Mr Jarvis was appointed as a joint liquidator on 8 May 2020 pursuant to section 179(4)(a) of the BVI Insolvency Act, 2003 (***BVI IA***). Mr Johnston was appointed as a joint liquidator on 13 December 2023 pursuant to section 187(1)(a) and 3(a) of the BVI IA (each a ***Joint Liquidator*** and together, the ***Joint Liquidators***).

The Liquidators

4 On 20 April 2020, Phoenix BVI was placed into liquidation by a qualifying resolution of its shareholders.

5 On 8 May 2020, Mr Jarvis and Matthew David Smith (***Mr Smith***), both of Deloitte LLP (***Deloitte***), were appointed as joint liquidators of Phoenix BVI at the first meeting of the creditors held, pursuant to section 179(4)(a) of the BVI IA.

6 On 28 April 2021, Mr Smith was removed from his position pursuant to section 187(1)(b)(iii) of the BVI IA. Ms Rachell Frisby (of Deloitte) (***Ms Frisby***) was appointed as a joint liquidator of Phoenix BVI pursuant to section 187(1)(b)(iii) of the BVI IA in Mr Smith's place.

7 On 13 December 2023, Mr Johnston was appointed as a Joint Liquidator pursuant to section 187(1)(a) and 3(a) of the BVI IA to replace Ms Frisby.

8 The deficiency in the winding up of Phoenix BVI has not been finally fixed but is considerably in excess of $40,001,623.20.

ASOR is a contributory of Phoenix BVI

9 ASOR is and was at the date of Phoenix BVI's winding up a member of Phoenix BVI, holding 440,935 shares of nominal amount $1 each (the ***Shares***). The Shares were issued to ASOR at a price of $90.72 per share, being a sum of 40,001,623.20 in aggregate.

10 By reason of section 195(1) of the BVI IA ASOR is liable to contribute to the assets of Phoenix BVI for the payment of its liabilities and the expenses of the liquidation. By reason of section 195(1)(a) the amount of that liability is limited to $40,001,623.20.

11 In the premises Phoenix BVI is a creditor of the Company, alternatively a contingent or prospective creditor of the Company, in the sum of $40,001,623.

Call on ASOR

12 On 16 December 2021, the (then) Joint Liquidators settled a list of members of Phoenix BVI in accordance with section 193(1) of the BVI IA. The settled list of members of Phoenix BVI (the ***Settled List***) records the total number of shares issued to ASOR as 440,935 and the issue price per share as US$90.72. The Joint Liquidators gave notice to ASOR the same day in accordance with section 193(2) of the BVI IA (the ***Notice***).

13 On 5 June 2024, the Joint Liquidators called on ASOR pursuant to section 204(1) of the BVI IA to pay US$90.72 per share for the Shares (the ***Call***). The total amount due in respect of the Call is US$40,001,623.20. In the circumstances Phoenix BVI, and/or the Joint Liquidators, in their capacity as liquidators of Phoenix BVI, are creditors of the Company, alternatively actual and/or contingent and/or prospective creditors of the Company in the sum of $40,001,623.20.

The Statutory Demand

14 On 12 November 2024, the Joint Liquidators, in their capacity as such, issued a statutory demand against the Company (the ***Demand***) on behalf of Phoenix BVI pursuant to section 93 of the Act. The Demand was served on the Company at its registered office that day.

15 On 5 December 2024, the Company filed a summons (the ***Summons***) seeking orders restraining the Joint Liquidators from presenting, or causing Phoenix BVI from presenting,

a winding up petition against the Company. The Summons was heard before the Honourable Justice Doyle on 26 February 2025 (the ***Hearing***).

16 On 26 February 2025, the Honourable Justice Doyle dismissed the Summons and awarded costs to the Joint Liquidators (the ***Summons Judgment***) to be assessed. The Joint Liquidators and/or Phoenix BVI are prospective creditors of the Company in respect of such costs.

Insolvency of the Company

17 The Petitioners now seek an order that the Company is wound up by the Court on the basis that one of its segregated portfolios, ASOR, is unable to pay its debts as:

(a) Pursuant to s 93(a) of the Act, the date which fell 21-days after the date of service of the Demand was 3 December 2024. Neither ASOR, nor the Company on ASOR's behalf, had satisfied the amount owing pursuant to the Demand; and/or

(b) Pursuant to s 93(c) of the Act, the Company is unable to pay its debts, ASOR having failed to pay when due the obligation to pay up its shares pursuant to the Call;

Such that the Company shall be deemed unable to pay its debts for the purposes of s 93 of the Act.

18 Accordingly, the Petitioners seek an order that the Company be wound up by the Court on the basis that it is unable to pay its debts pursuant to s 92(d) of the Act.

Loss of Substratum

19 In the alternative it is just and equitable to wind up the Company pursuant to s 92(e) of the Act on the grounds that ASOR has lost its substratum in circumstances where (a) the only or only intended business of ASOR was an investment in the shares in Phoenix BVI; (b) Phoenix BVI is now in insolvent liquidation and (c) ASOR has never paid up its shares in Phoenix BVI.

Conclusion

20 In the circumstances, the Petitioners seek an order from this Honourable Court that the Company be wound up and nominate the Liquidators (as defined below) to be the official liquidators of the Company.

YOUR PETITIONERS THEREFORE HUMBLY PRAY THAT:

1 The Company be wound up in accordance with the Act.

2 Grant Hiley of Deloitte & Touche, Camana Bay, 60 Nexus Way, 8th floor, PO Box 1787, Grand Cayman, KY1-1109, Cayman Islands (***Deloitte (Cayman)***) and Ryan Paul Jarvis of Deloitte Ltd, Wickham's Cay 2, PO Box 3083, Road Town, Tortola, VG1110, British Virgin Islands be appointed as official liquidators of the Company (the ***Official Liquidators***) with the power to act jointly and severally.

3 Angela Barkhouse of Kroll Advisory (Cayman) Ltd., Strathvale House, Level 3, 90 North Church Street, George Town, Cayman Islands be appointed as official liquidator of the Company (the ***Appeal Liquidator***) for the limited purposes of commencing, continuing, defending or abandoning any action or appeal in the British Virgin Islands arising from or in relation to case number: BVIHCMAP2024/0019 in the name and on behalf of the Company (and for the Appeal Liquidator to take such action as may be necessary or desirable to obtain recognition for the purposes of doing so).

4 No suit, action or other proceeding be proceeded with or commenced against the Company except with the leave of this Honourable Court and subject to such terms as this Honourable Court may impose.

5 No disposition of the Company's property by or with the authority of the Official Liquidators in carrying out their duties and functions and in the exercise of their powers shall be voided by virtue of s 99 of the Act.

6 The Official Liquidators and the Appeal Liquidator shall not be required to give security for their appointment.

7 The remuneration and expenses of the Official Liquidators and the Appeal Liquidator be paid out of the assets of the Company in accordance with Part III of the Insolvency Practitioners' Regulations (2023 Consolidation) and Order 20 of the Companies Winding Up Rules (2023 Consolidation);

8 Subject to section 109(2) of the Companies Act and the Insolvency Practitioner Regulations (2023 Consolidation), the Official Liquidators and the Appeal Liquidator be authorised to render and pay invoices out of the assets of the Company for their own remuneration;

9 The Official Liquidators and the Appeal Liquidator be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties and, for the avoidance of doubt, all such payments shall be made as and when they fall due out of the assets of the Company as an expense of the liquidation;

10 The Official Liquidators and the Appeal Liquidator be at liberty to apply generally; and

11 The Petitioners' costs shall be paid out of the assets of the Company as an expense of the liquidation, such costs to be taxed on an indemnity basis if not agreed with the Official Liquidators.

AND your Petitioners will ever pray.

Dated the 7th day of March 2025

_____

Harney Westwood & Riegels (Cayman) LLP

Attorneys-at-Law for and on behalf of the Petitioners

NOTE: This Petition is intended to be served on the Company

This Petition is presented by Harney Westwood & Riegels (Cayman) LLP, Attorneys-at-Law for the Petitioners, whose address for service is 3rd Floor, Harbour Place, 103 South Church Street, PO Box 11088, Grand Cayman KY1-1008, Cayman Islands (**Ref:** 046588-0020-BPH/LJF).

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this Petition will take place at the Law Courts, George Town, Grand Cayman, Cayman Islands on _____ at _____.

Any correspondence or communication with the Court relating to the hearing of this Petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at PO Box 495, George Town, Grand Cayman KY1-1106, Cayman Islands; tel: 345 949 4296.