IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	: Chapter 15
EarthRenew IP Holdings LLC, et al.[1]	: Case No. 10-13363 (CSS)
	: Jointly Administered
Debtors in a Foreign Proceeding.	: **Hearing Date: February 18, 2011 at 11:00 a.m. (ET)**
	Objection Deadline: February 11, 2010 at 4:00 p.m. (ET)

NOTICE OF MOTION

TO: (I) THE UNITED STATES TRUSTEE; (II) COUNSEL FOR ANY KNOWN SECURED CREDITORS OF THE DEBTORS; (III) PRINCIPAL PARTIES THAT HAVE APPEARED IN THE CANADIAN RECEIVERSHIP PROCEEDING; (IV) THE DEBTORS; (V) THE INTERNAL REVENUE SERVICE; (VI) THE SECURITIES AND EXCHANGE COMMISSION; (VII) ANY KNOWN CREDITORS OF THE DEBTORS; AND (VIII) ALL PARTIES WHICH, AS OF THE FILING OF THE MOTION, HAVE REQUESTED NOTICE IN THESE CHAPTER 15 CASES.

PLEASE TAKE NOTICE that RSM Richter Inc. (the "Receiver"), in its capacity as the court-appointed receiver and duly authorized foreign representative for the above-captioned debtors in Canadian receivership proceedings commenced under the Bankruptcy and Insolvency Act (Canada), R.S.C. 1985, c. B-3, as amended, pending before the Court of Queen's Bench of Alberta in the Judicial District of Calgary, has filed the attached **Receiver's Motion for Entry of Order, Pursuant to Sections 105(a), 363, 1501, 1507, 1520 and 1521 of the Bankruptcy Code, and Bankruptcy Rules 2002 and 6004, (I) Recognizing and Enforcing the Order of the Canadian Court Authorizing and Approving the Sale of Substantially All of the Debtors' Assets, (II) Authorizing and Approving the Sale Free and Clear of Any and All Liens, Claims, Encumbrances and Other Interests, and (III) Granting Certain Related Relief.**

PLEASE TAKE FURTHER NOTICE that any objections to the Motion must be filed on or before **February 11, 2011 at 4:00 p.m. (ET)** (the "Objection Deadline") with the

[1] The Debtors in the Chapter 15 Cases, along with the last four digits of their United States Tax Identification Number or Canadian Business Number, as applicable, are: EarthRenew IP Holdings LLC ("EarthRenew IP"); EarthRenew Corporation (0985); EarthRenew, Inc. (1813); EarthRenew Management General Partner Ltd. (2218); EarthRenew Management LP (5417); EarthRenew Operational Employee LP (2155); EarthRenew Solutions LP (6554); EarthRenew Strathmore 1 LP (3013); and EarthRenew Strathmore General Partner Ltd. (7013). The Debtors' corporate headquarters are located at, and the mailing address for the Debtors is, 1925 18th Avenue N.E., Suite 201, Calgary, Alberta, T2E 7T8, Canada. Only EarthRenew, Inc. maintains a United States Tax Identification Number. Canadian Business Numbers have been listed for the other Debtors, with the exception of EarthRenew IP, which is a United States entity disregarded for tax purposes and therefore does not maintain a United States Tax Identification Number.

United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801. At the same time, you must serve a copy of the response upon the undersigned counsel to the Receiver so as to be received on or before the Objection Deadline.

PLEASE TAKE FURTHER NOTICE that a hearing to consider the Motion will be held on **February 18, 2011 at 11:00 a.m. (ET)** before the Honorable Christopher S. Sontchi at the United Sates Bankruptcy Court for the District of Delaware, 824 North Market Street, 5th Floor, Courtroom No. 6, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE THAT IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR A HEARING.

Dated: Wilmington, Delaware
January 28, 2011

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Robert F. Poppiti, Jr.
Michael R. Nestor (No. 3256)
Donald J. Bowman, Jr. (No. 4383)
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Attorneys for RSM Richter Inc., Receiver and Foreign Representative for the Debtors

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	:	Chapter 15
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EarthRenew IP Holdings LLC, et al.[1]	:	Case No. 10-13363 (CSS)
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	:	Jointly Administered
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Debtors in a Foreign Proceeding.	:	**Hearing Date: February 18, 2011 at 11:00 a.m. (ET)**
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RECEIVER'S MOTION FOR ENTRY OF ORDER, PURSUANT TO SECTIONS 105(a), 363, 1501, 1507, 1520 AND 1521 OF THE BANKRUPTCY CODE, AND BANKRUPTCY RULES 2002 AND 6004, (I) RECOGNIZING AND ENFORCING THE ORDER OF THE CANADIAN COURT AUTHORIZING AND APPROVING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS, (II) AUTHORIZING AND APPROVING THE SALE FREE AND CLEAR OF ANY AND ALL LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS, AND (III) GRANTING CERTAIN RELATED RELIEF

RSM Richter Inc. ("RSM" or the "Receiver"), in its capacity as the court-appointed receiver and duly authorized foreign representative for the above-captioned debtors (collectively, the "Debtors") in Canadian receivership proceedings (the "Canadian Receivership Proceeding") commenced under the Bankruptcy and Insolvency Act (Canada), R.S.C. 1985, c. B-3, as amended, pending before the Court of Queen's Bench of Alberta in the Judicial District of Calgary (the "Canadian Court"), hereby moves (this "Motion") this Court for the entry of an order, pursuant to sections 105(a), 363, 1501, 1507, 1520 and 1521 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code"), Rules 2002 and 6004 of the

[1] The Debtors in the Chapter 15 Cases, along with the last four digits of their United States Tax Identification Number or Canadian Business Number, as applicable, are: EarthRenew IP Holdings LLC ("EarthRenew IP"); EarthRenew Corporation (0985); EarthRenew, Inc. (1813); EarthRenew Management General Partner Ltd. (2218); EarthRenew Management LP (5417); EarthRenew Operational Employee LP (2155); EarthRenew Solutions LP (6554); EarthRenew Strathmore 1 LP (3013); and EarthRenew Strathmore General Partner Ltd. (7013). The Debtors' corporate headquarters are located at, and the mailing address for the Debtors is, 1925 18th Avenue N.E., Suite 201, Calgary, Alberta, T2E 7T8, Canada. Only EarthRenew, Inc. maintains a United States Tax Identification Number. Canadian Business Numbers have been listed for the other Debtors, with the exception of EarthRenew IP, which is a United States entity disregarded for tax purposes and therefore does not maintain a United States Tax Identification Number.

Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 6004-1(b) of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), (i) recognizing and enforcing that certain Sale Approval and Vesting Order (the "Canadian Sale Order," a copy of which is attached as Exhibit 1 to the Proposed Order (as defined below)) entered by the Canadian Court on January 26, 2011 in the Canadian Receivership Proceeding, pursuant to which the Canadian Court authorized and approved the sale (the "Sale") of the Debtors' Assets to 089021 B.C. Ltd. (the "Purchaser" or "089") pursuant to the terms and conditions of that certain Agreement of Purchase and Sale (the "Asset Purchase Agreement," a copy of which is attached hereto as Exhibit A),[2] dated October 13, 2010, by and between RSM, solely in its capacity as the Receiver, and 089, (ii) authorizing and approving the Sale free and clear of any and all liens, claims, encumbrances and other interests, and (iii) granting certain relief related thereto. In support of this Motion, the Debtors rely upon (i) the *Declaration of Robert J. Taylor In Support of Petitioner's (I) Verified Petitions Under Chapter 15, (II) Motion for Joint Administration, (III) Motion for Provisional and Final Relief In Recognition of Foreign Main Proceedings, and (IV) Motion to Establish Certain Notice Procedures in Connection with Filing of Verified Petitions Under Chapter 15* [Docket No. 8] (the "Taylor First Day Declaration") filed on the Petition Date (as defined below) and (ii) the *Declaration of Robert J. Taylor In Support of Receiver's Motion for Entry of Order, Pursuant to Sections 105(a), 363, 1501, 1507, 1520 and 1521 of the Bankruptcy Code, and Bankruptcy Rules 2002 and 6004, (I) Recognizing and Enforcing the Order of the Canadian Court Authorizing and Approving the Sale of Substantially All of the Debtors' Assets, (II) Authorizing and Approving the Sale Free and Clear of Any and All Liens, Claims, Encumbrances and Other Interests, and*

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Asset Purchase Agreement.

(III) Granting Certain Related Relief (together with the Taylor First Day Declaration, the "Taylor Declarations") filed contemporaneously herewith, each of which are incorporated herein by reference. In further support of the relief requested herein, the Receiver respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this Court and this District pursuant to 28 U.S.C. § 1410. The statutory predicates for the relief requested herein are sections 105(a), 363, 1501, 1507, 1520 and 1521 of the Bankruptcy Code, along with Bankruptcy Rules 2002 and 6004 and Local Rule 6004-1(b).

BACKGROUND

A. General Background

2. On October 20, 2010 (the "Petition Date"), the Receiver commenced the Debtors' chapter 15 cases (collectively, the "Chapter 15 Cases") by filing petitions (collectively, the "Chapter 15 Petitions") for the Debtors pursuant to sections 1504 and 1515 of the Bankruptcy Code.

3. Prior to the Petition Date, on September 15, 2010, the Canadian Court entered an order (the "Receivership Order") appointing RSM to act as receiver and manager of the Debtors' assets.

4. On the Petition Date, the Receiver filed the *Receiver's Motion for Provisional and Final Relief In Recognition of a Foreign Main Proceeding Pursuant to Sections 105(a), 1519, 1520 and 1521 of the Bankruptcy Code* [Docket No. 6] (the "Recognition Motion"), requesting (i) entry of a provisional order (the "Provisional Relief Order"), on an

interim basis, (a) enforcing the Receivership Order, (b) staying any collection activity by creditors against the Debtors' assets in the United States, and (c) entrusting management of the Debtors' assets in the United States to the Receiver in a manner consistent with the Receivership Order, (ii) entry of a final order (the "Recognition Order"), after notice and a hearing, granting recognition of the Canadian Receivership Proceeding as a foreign main proceeding under section 1517 of the Bankruptcy Code and enforcing the Receivership Order on a permanent basis in the United States and (iii) such other and further relief as this Court deemed just and proper.

5. On October 22 and November 10, 2010, this Court entered the Provisional Relief Order [Docket No. 21] and the Recognition Order [Docket No. 43], respectively.

6. Additional information about the Debtors' business, the events leading up to the Petition Date, and the facts and circumstances surrounding the Debtors, the Canadian Receivership Proceeding and the Chapter 15 Cases can be found in the Taylor First Day Declaration.

B. Relevant Background

7. On November 10, 2010, this Court entered an order [Docket No. 42] (the "U.S. Sale Procedures Order") recognizing and enforcing that certain Stalking Horse Bid/Sales Process Order (the "Canadian Sale Procedures Order," and together with the U.S. Sale Procedures Order, the "Sale Procedures Orders") entered by the Canadian Court on October 19, 2010 in the Canadian Receivership Proceeding. Pursuant to the Canadian Sale Procedures Order, the Canadian Court (i) approved the Receiver's proposed bidding, auction and sale procedures (the "Sale Procedures") for the Debtors' Assets, (ii) authorized and directed the Receiver to enter into the Asset Purchase Agreement, and (iii) approved the Purchaser's offer for the Assets, upon the terms and conditions in the Asset Purchase Agreement, as the stalking horse

bid (the "Stalking Horse Bid") in connection with the Sale Procedures. The Sale Procedures were established by the Receiver in an effort to subject the value of the Assets to market testing through the solicitation of higher and/or better bids for the Assets. Under the Sale Procedures, any bid competing with the Stalking Horse Bid for the Assets ("Competing Bid(s)") was required to be received by the Receiver, in its entirety, by no later than 5:00 p.m. (Calgary time) on November 19, 2010 (the "Bid Deadline").

8. In accordance with the Sale Procedures Orders and in connection with the Sale Procedures, the Receiver sent approximately 200 introductory letters to potential strategic and financial buyers located throughout North America and Europe. Approximately 70 of these letters were sent to financial firms, primarily venture capital groups with interest in the Debtors' industry, while the remaining letters were sent to strategic buyers, primarily agricultural distributors, fertilizer companies, organic fertilizer companies, large feedlots and other members of fertilizer associations. Subsequent to sending the introductory letters, the Receiver made follow-up calls to various parties to which the letters were sent. In addition, the Receiver published notice in *The Globe & Mail*[3] regarding the sale of the Debtors' Assets, and established a virtual data room to provide prospective bidders with the information they would need to quickly get up to speed regarding the nature of the Debtors' business and the assets and liabilities related thereto. As a result of the Receiver's marketing efforts, 7 parties entered confidentiality agreements in order to receive additional information regarding the Assets, and all but 1 of these parties were active in the virtual data room.

9. The Sale Procedures, as well as the Receiver's marketing efforts in connection therewith, balanced the economics realities of the Canadian Receivership Proceeding

[3] *The Globe and Mail* is Canada's leading national newspaper and it is customary for ads of this nature to be placed in this publication.

and these Chapter 15 Cases with the need to implement and carry out a process designed to maximize estate value. The Receiver marketed the Assets and did so in a manner that was appropriate and cost efficient given the value of the Assets. Notwithstanding the Receiver's efforts, prior to the Bid Deadline, no Competing Bids were received. Accordingly, no auction was held for the Assets, and on January 26, 2011, after the Receiver and the Purchaser had an opportunity to work through certain matters related to the Sale and request a hearing before the Canadian Court to consider the approval of the Sale, the Canadian Court entered the Canadian Sale Order, thereby authorizing the Sale.

RELIEF REQUESTED

10. By this Motion, the Receiver respectfully requests that the Court enter an order, in substantially the form attached hereto as Exhibit B (the "Proposed Order"), pursuant to sections 105(a), 363, 1501, 1507, 1520 and 1521 of the Bankruptcy Code, Bankruptcy Rules 2002 and 6004, and Local Rule 6004-1(b), (i) recognizing and enforcing the Canadian Sale Order, (ii) authorizing and approving the Sale free and clear of any and all liens, claims, encumbrances and other interests (collectively, "Liens"), and (iii) granting certain related relief.

11. The Receiver believes that a sale of the Assets in accordance with the terms and conditions of the Asset Purchase Agreement and the Canadian Sale Order represents the highest and best value for the Debtors' estates and creditors, and that this Court's recognition and enforcement of the Canadian Sale Order, and approval of the Sale free and clear of any and all Liens, is critical to achieving this result. Among other things, it will permit the Receiver to sell the Assets in the Canadian Receivership Proceeding without disruption and in a timely and efficient manner, and provide further certainty to the Sale and to the Purchaser. Furthermore, that the Asset Purchase Agreement represents the highest and best value for the Assets is

substantiated by the fact that, despite the establishment of the Sale Procedures, which included a comprehensive marketing of the business and Assets, no Competing Bids were received. Absent the relief requested herein, the Debtors and their estates will potentially suffer significant, if not irreparable, harm from the Receiver's inability to proceed with the Sale without interruption.

12. A summary of the material provisions of the Asset Purchase Agreement and the material terms and conditions of the Canadian Sale Order are provided below.

A. Asset Purchase Agreement[4]

13. Subsequent to the commencement of the Canadian Receivership Proceeding, RSM, solely in its capacity as the Receiver, and 089, a corporation duly incorporated under the laws of the Province of British Columbia, entered into the Asset Purchase Agreement, subject to a higher and better offer for the Assets and a determination by the Receiver that the Purchase Price exceeds the net realizable value of the Debtors' business and Assets in a liquidation. 089 is a nominee corporation formed by Nile Capital I S.à.r.l., Nile Capital II S.à.r.l., Luxor Capital Partners, LP, and Luxor Capital Partners Offshore Master Fund LP, secured lenders to the Debtors and the parties which brought the application to commence the Canadian Receivership Proceeding.

14. The following is a summary of the material provisions of the Asset Purchase Agreement:[5]

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[4] Any summary of, or reference to, the terms and conditions of the Asset Purchase Agreement or the Canadian Sale Order herein are qualified in their entirety by the actual terms and conditions of the Asset Purchase Agreement and the Canadian Sale Order. To the extent there is any inconsistency between any such summary or reference herein and the actual terms and conditions of the Asset Purchase Agreement and the Canadian Sale Order, the actual terms and conditions of the Asset Purchase Agreement and the Canadian Sale Order shall control.

[5] Pursuant to Local Rule 6004-1(b)(iv), a Sale Motion (as defined in the Local Rules) must highlight certain provisions contained in the proposed form of sale order and/or the underlying purchase agreement. The Receiver has highlighted below the relevant provisions of the Asset Purchase Agreement and the Canadian Sale Order which implicate Local Rule 6004-1(b)(iv) by providing a citation, in bold, to the relevant sections of the Asset Purchase Agreement or paragraphs of the Canadian Sale Order, with an accompanying parenthetical identifying the Local Rule implicated. **In addition, the Receiver highlights that, pursuant to the Proposed Order, it is requesting (i)**

a. Purchased Assets. Relying on the representations and warranties in the Asset Purchase Agreement, the Receiver is selling, assigning, conveying and transfering to the Purchaser and the Purchaser is purchasing all right, title and interest of the Debtors and the Receiver in and to the Assets (other than the Excluded Assets). For purposes of this Motion and the Asset Purchase Agreement, the term "Assets" means all of the Debtors' and Receiver's right, title and interest, in and to all of the tangible and intangible assets, properties, rights and Claims, wherever located, used, intended for use or arising in connection with the ownership, operation or conduct of the Business, including, without limitation, the Intellectual Property, Contracts, Equipment, Real Property, Books and Records and Warranty Rights (but not including any Excluded Assets), including, without limiting the generality of the foregoing, as further detailed on Exhibit "A" to the Terms and Conditions of Sale.

b. Excluded Assets. Notwithstanding anything to the contrary in the Asset Purchase Agreement, the Purchaser may, at its option, elect to exclude any of the Assets from the Asset Purchase Agreement, including, without limitation, any Contracts, Equipment or Real Property, by written notice given to the Receiver prior to the Closing Date (collectively, the "Excluded Assets") whereupon all such Assets shall be excluded from the Asset Purchase Agreement, provided, however, that there shall be no reduction or adjustment of the Purchase Price.

c. Condition of Assets. The Purchaser acknowledges that the Receiver is selling and the Purchaser is purchasing the Assets on an *"as is, where is"* and *"without recourse"* basis as they shall exist on the Closing Date. The Purchaser further acknowledges and agrees that it has entered into the Asset Purchase Agreement on the basis that neither the Debtors nor the Receiver has guaranteed or will guarantee title to the Assets, that the Purchaser has conducted such inspections of the condition and title to the Assets as it deems appropriate and has satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrance, description, fitness for purpose, environmental compliance, merchantability, condition or quality, or in respect of any other matter or thing whatsoever concerning the Assets, or the right of the Receiver to sell, assign, convey or transfer same save and except as expressly provided for in the Asset Purchase Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Alberta) do not apply to the Asset Purchase Agreement and/or have been waived by the Purchaser. The description of the Assets contained in the Asset Purchase Agreement is for the purpose of identification only and no representation, warranty or condition has or will be given by the Receiver concerning the accuracy of such description.

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the Sale to be approved under section 363(f) of the Bankruptcy Code free and clear of any Liens and (ii) a waiver of Bankruptcy Rule 6004(h).

d. Purchase Price. The Purchaser shall pay to the Receiver, in consideration for the sale, assignment, conveyance and transfer of the Assets to the Purchaser at Closing, the amount of CDN$5,100,000 plus the Priority Debt, plus all applicable taxes (the "Purchase Price"), which Purchase Price shall be satisfied by some combination of the assumption of the Secured Debt and the Priority Debt and cash,[6] subject to the reasonable discretion of the Receiver. For greater certainty, the Receiver acknowledges and agrees that any agreement to assume all or part of the Secured Debt and/or the Priority Debt shall be valued on a dollar for dollar basis as if the Secured Debt and/or the Priority Debt were paid in cash. The Purchase Price shall be allocated among the Assets, as the Receiver and the Purchaser may agree, each acting reasonably. **Asset Purchase Agreement at § 4.1 (Local Rule 6004-1(b)(iv)(N) – Credit Bid).**

e. Taxes. The Purchaser will be liable for and will pay all value added, excise, sales, consumption, retail sales, land transfer, GST/HST and other taxes payable with respect to the purchase and sale of the Assets. Alternatively, where applicable, the Purchaser shall have the option to furnish the Receiver with appropriate tax exemption certificates.

f. Closing Date. For purposes of the Asset Purchase Agreement, the "Closing Date" means the Business Day following the date on which the Approval and Vesting Order is granted or such other date as agreed to in writing by the Receiver and the Purchaser. **Asset Purchase Agreement at § 1.1 (Local Rule 6004-1(b)(iv)(E) – Closing and Other Deadlines).**

B. Canadian Sale Order

15. On January 26, 2011, the Canadian Court entered the Canadian Sale Order, pursuant to which it, among other things: (i) ratified and approved the Asset Purchase Agreement; (ii) determined that the consideration due and owing by the Purchaser under the Asset Purchase Agreement may be paid by way of a reduction in the Purchaser's claim against the Debtors;[7] (iii) authorized the Receiver to conclude the Sale transaction contemplated by the Asset Purchase Agreement and to take all such steps and execute all such documents as may

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[6] As noted herein, the Purchaser is credit bidding its secured claim, and ultimately the Purchase Price will be satisfied by the Purchaser through a combination of cash and a reduction of the Purchaser's secured claim, with the cash to be used to pay priority creditors, including, without limitation, professional fees incurred in connection with the Canadian Receivership Proceeding and the Chapter 15 Cases.

[7] **Canadian Sale Order at ¶ 2 (Local Rule 6004-1(b)(iv)(N) – Credit Bid).**

reasonably be necessary to complete the transaction contemplated therein; (iv) determined that upon the closing of the Sale, all of the Receiver's and the Debtors' right, title and interest in and to the Assets shall, without further instrument of transfer or assignment, vest in the Purchaser as contemplated by the Asset Purchase Agreement, absolutely and forever, free and clear of and from any and all claims by, through, or under the Debtors, and any of them, other than claims arising under the Receivership Order, as amended, which claims shall continue against the Assets, and free and clear of and from any and all estate, right, title, interest, and liens, except as may otherwise be provided in the Asset Purchase Agreement or the Canadian Sale Order;[8] (v) ordered that the Purchaser shall, by virtue of the completion of the Sale, have no liability of any kind whatsoever to any Claimants (as defined therein) in respect of any Claims (as defined therein) any of the Claimants may have against the Debtors, or any of them; (vi) requested 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 the Canadian Sale Order and to assist the Receiver and its agents in carrying out the terms of the order; and (vii) authorized and empowered the Receiver to apply to any Court, tribunal, regulatory or administrative body, wherever located, for the recognition of the Canadian Sale Order and for assistance in carrying out the terms of such order.

BASIS FOR RELIEF REQUESTED

A. The Court Should Recognize and Enforce the Canadian Sale Order and Authorize and Approve the Sale Pursuant to Section 363 of the Bankruptcy Code

16. The relief requested herein is authorized by sections 105(a), 363, 1501, 1507, 1520 and 1521 of the Bankruptcy Code.

[8] **Canadian Sale Order at ¶ 4 (Local Rule 6004-1(b)(iv)(M) – Sale Free and Clear).**

17. Section 1520 of the Bankruptcy Code provides, in pertinent part, that "[u]pon recognition of a foreign proceeding that is a foreign main proceeding, [section 363 of the Bankruptcy Code applies] to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States." 11 U.S.C. § 1520(a)(2).

18. Meanwhile, section 1507 of the Bankruptcy Code provides that "[s]ubject to the specific limitations stated elsewhere in [chapter 15 of the Bankruptcy Code] the court, if recognition is granted, may provide additional assistance to a foreign representative under [chapter 15] or under other laws of the United States." Id. at § 1507(a).

19. Similarly, section 1521 of the Bankruptcy Code provides, in relevant part, that "[u]pon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of [chapter 15 of the Bankruptcy Code] and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including granting any . . . relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a) [of the Bankruptcy Code]." Id. at § 1521(a)(7).

20. Section 363(b)(1) of the Bankruptcy Code, in turn, provides, in relevant part, that a debtor "after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." Id. at § 363(b)(1). Section 363 of the Bankruptcy Code does not set forth a standard for determining when it is appropriate for a court to authorize the sale or disposition of a debtor's assets prior to confirmation of a plan. However, courts in this Circuit and others have required that the decision to sell assets outside the ordinary course of business be based upon the proponent's sound business judgment. See In re Abbotts Dairies of Pennsylvania, Inc., 788 F.2d 143 (3d Cir. 1986); see also Myers v. Martin (In re Martin), 91 F.3d

389, 395 (3d Cir. 1996); Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.), 722 F.2d 1063, 1071 (2d Cir. 1983); Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp., (In re Montgomery Ward Holding Corp.), 242 B.R. 147, 153 (D. Del. 1999); In re Delaware & Hudson Ry. Co., 124 B.R. 169, 176 (D.D.C. 1991).

21. The "sound business judgment" test requires a proponent of a sale to establish four elements in order to justify the sale or lease of property outside the ordinary course of business: (i) that a "sound business purpose" justifies the sale of assets outside the ordinary course of business; (ii) that adequate and reasonable notice has been provided to interested persons; (iii) that the trustee or debtor in possession has obtained a fair and reasonable price; and (iv) good faith. Abbotts Dairies, 788 F.2d 143; Titusville Country Club v. Pennbank (In re Titusville Country Club), 128 B.R. 396, 399 (Bankr. W.D. Pa. 1991); In re Sovereign Estates, Ltd., 104 B.R. 702, 704 (Bankr. E.D. Pa. 1989).

22. Additionally, section 105(a) of the Bankruptcy Code provides a bankruptcy court with broad powers in the administration of a case under the Bankruptcy Code, as "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]." Id. at § 105(a). Provided that a bankruptcy court does not employ its equitable powers to achieve a result not contemplated by the Bankruptcy Code, the exercise of its section 105(a) power is proper. In re Fesco Plastics Corp., 996 F.2d 152, 154 (7th Cir. 1993); Pincus v. Graduate Loan Ctr. (In re Pincus), 280 B.R. 303, 312 (Bankr. S.D.N.Y. 2002).

23. Moreover, several courts in this District have granted relief similar to the relief requested in this Motion. See, e.g., In re Grant Forest Products, Case No. 10-11132 (PJW) (Bankr. D. Del. April 26, 2010) (affirming and enforcing sale order entered by Canadian court

and separately authorizing and approving the sale free and clear of any and all liens, claims, encumbrances and other interests under section 363 of the Bankruptcy Code); In re Destinator Technologies Inc., Case No. 08-11003 (CSS) (Bankr. D. Del. July 8, 2008) (same).

24. As set forth more fully in the Taylor First Day Declaration and the Recognition Motion, the Receiver commenced these Chapter 15 Cases in an effort to seek recognition of the Canadian Receivership Proceeding as a "foreign main" proceeding under section 1517 of the Bankruptcy Code, and to seek certain related relief from this Court, including this Court's recognition and enforcement of the Canadian Sale Order. The Receiver's ultimate goal in filing the Chapter 15 Petitions, with the aid of this Court through the Chapter 15 Cases, was to ensure an orderly administration of the Debtors' financial affairs under the auspices of the Canadian Receivership Proceeding, all in the context of maximizing recoveries for the Debtors' creditors.

25. On November 10, 2010, this Court entered the Recognition Order, recognizing these Chapter 15 Cases as a foreign main proceeding, ancillary to the Canadian Receivership Proceeding. As a result of this Court's entry of the Recognition Order, the Receiver is entitled to the benefits and protections afforded to a foreign representative under the Bankruptcy Code. The Receiver therefore believes that the relief requested herein is warranted under sections 105(a), 363, 1507, 1520 and 1521 of the Bankruptcy Code and justified under the facts and circumstances of these Chapter 15 Cases. Simply put, the Sale is the only way to recover any meaningful value for the Assets for the benefit of the Debtors' estates and creditors.

26. This Court's recognition and enforcement of the Canadian Sale Order is critical to achieving this result, as it will permit the Receiver to sell the Assets in the Canadian Receivership Proceeding without disruption, and provide further certainty to the Sale and to the

Purchaser. Absent the relief requested herein, the Debtors and their estates will likely suffer substantial, if not irreparable, harm from the Receiver's inability to sell the Assets without interference and in a manner that will allow the Receiver to maximize recoveries for all creditors.

27. The Receiver also submits that more than ample business justification exists to sell the Assets to the Purchaser. Under the facts and circumstances of the Canadian Receivership Proceeding and these Chapter 15 Cases, the Sale Procedures approved by the Canadian Court, and recognized and enforced by this Court, allowed for a timely and efficient auction and sale process, while providing potential bidders with ample time and information to submit a timely bid. The Sale Procedures were designed to ensure that the Assets would be sold for the highest or otherwise best possible purchase price, while taking into account the fact that funding for a sale process longer than that provided for in the Sale Procedures was not readily available to the Debtors' estates. Moreover, even if it were available, any such funding would have been complicated and time consuming to obtain on an expedited basis, and the Receiver would have run the risk that the Assets would dissipate in value and become difficult, if not impossible, to properly maintain pending the conclusion of a prolonged auction and sale process. Furthermore, the Sale Procedures were structured to be fully consistent with the provisions of section 363 of the Bankruptcy Code and judicial and market precedents in both the Judicial District of Calgary (in which the Canadian Court sits) and the District of Delaware.

28. After a thorough review of the Assets and extensive marking efforts in connection with the sale process, which has now concluded, the Receiver believes that the Sale will achieve the highest and best value for the Assets for the benefit of the Debtors' estates and creditors. This determination is substantiated by the fact that no Competing Bids were received prior to the Bid Deadline. Therefore, the Receiver and all parties in interest can be assured that

the consideration to be received for the Assets is fair and reasonable now that the Assets have been subjected to market testing. Accordingly, the Receiver submits that the first, second and third prongs of the Abbotts Dairies standard have been satisfied and, as discussed below, the "good faith" prong of this standard is also satisfied here.

29. Also, granting the requested relief is in the public interest. The purpose of chapter 15 of the Bankruptcy Code is:

> [T]o incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—
>
> (1) cooperation between—
>
> (A) courts of the United States, United States trustees, trustees, examiners, debtors, and debtors in possession; and
>
> (B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;
>
> (2) greater legal certainty for trade and investment;
>
> (3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;
>
> (4) protection and maximization of the value of the debtor's assets; and
>
> (5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

11 U.S.C. § 1501(a). Entry of the Proposed Order will permit the Receiver to sell the Assets in the Canadian Receivership Proceeding without disruption, in a timely and efficient manner, and in a manner that will preserve and maximize the value of those assets for the benefit of creditors.

30. Finally, through the Canadian Sale Order, the Canadian Court specifically requested the aid and recognition of any Court, tribunal, and regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to the Canadian Sale Order and to assist the Receiver in carrying out the terms of the Canadian Sale Order. Canadian Sale Order at ¶ 12. Also, the Canadian Court previously requested similar relief with respect to the Receivership Order and the Canadian Sale Procedures Order, which this Court granted through its entry of the Recognition Order and the U.S. Sale Procedures Order, respectively. See Receivership Order at ¶ 26; Canadian Sale Procedures Order at ¶ 5.

31. For all of the foregoing reasons, the Receiver respectfully submits that there is more than ample justification for this Court to enter the Proposed Order, thereby recognizing and enforcing the Canadian Sale Order and authorizing and approving the Sale pursuant to section 363 of the Bankruptcy Code.

B. The Court Should Authorize and Approve the Sale Free and Clear of Any and All Liens, Claims, Encumbrances, and Other Interests Pursuant to Section 363(f) of the Bankruptcy Code

32. The Receiver also respectfully requests the Court, pursuant to section 363(f) of the Bankruptcy Code, to authorize and approve the Sale free and clear of any and all Liens.

33. Under section 363(f) of the Bankruptcy Code, a trustee or a debtor in possession may sell all or any part of a debtor's property free and clear of any and all liens, claims, encumbrances, and other interests in such property if: (i) such a sale is permitted under applicable non-bankruptcy law; (ii) the party asserting such a lien, claim or interest consents to such sale; (iii) the interest is a lien and the purchase price for the property is greater than the aggregate amount of all liens on the property; (iv) the interest is the subject of a bona fide

dispute; or (v) the party asserting the lien, claim or interest could be compelled, in a legal or equitable proceeding, to accept a money satisfaction for such interest. 11 U.S.C. § 363(f); Citicorp Homeowners Serv., Inc. v. Elliot (In re Elliot), 94 B.R. 343, 345 (E.D. Pa. 1988) (noting that section 363(f) of the Bankruptcy Code is written in the disjunctive; therefore, a court may approve a sale "free and clear" provided at least one of the subsections is met).

34. Because the Receiver expects that it will satisfy, at a minimum, the second and fifth of these requirements, if not others as well, this Court's authorization and approval of the Sale free and clear of any and all Liens is warranted. Furthermore, several courts have held that they have the equitable power to authorize sales free and clear of interests that are not specifically covered by section 363(f). See, e.g., In re Trans World Airlines, Inc., 2001 WL 1820325 at *3, 6 (Bankr. D. Del. March 27, 2001); Volvo White Truck Corp. v. Chambersburg Beverage, Inc. (In re White Motor Credit Corp.), 75 B.R. 944, 948 (Bankr. N.D. Ohio 1987).

35. Also, as noted above, several courts in this District have granted similar relief in other chapter 15 cases.

C. The Court Should Afford the Purchaser All Protections Under Section 363(m) of the Bankruptcy Code as a Good Faith Purchaser

36. In addition to the relief requested above, the Receiver requests the Court to find that the Purchaser is entitled to the benefits and protections provided by section 363(m) of the Bankruptcy Code in connection with the Sale.

37. Section 363(m) of the Bankruptcy Code provides, in pertinent part:

> The reversal or modification on appeal of an authorization under subsection (b) . . . of this section of a sale . . . of property does not affect the validity of a sale . . . under such authorization to an entity that purchased . . . such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale . . . were stayed pending appeal.

11 U.S.C. § 363(m). Section 363(m) of the Bankruptcy Code thus protects the purchaser of assets sold pursuant to section 363 of the Bankruptcy Code from the risk that it will lose its interest in the purchased assets if the order allowing the sale is reversed on appeal.

38. The Receiver submits, and will present evidence at the hearing on this Motion if necessary, that the Asset Purchase Agreement was negotiated, proposed and entered into by the Receiver and the Purchaser without collusion, in good faith, and from an arms' length bargaining position. Also, in the Taylor Declarations and this Motion, the Receiver has fully disclosed that the Purchaser is a nominee corporation formed by secured lenders to the Debtors and the parties which brought the application to commence the Canadian Receivership Proceeding. No evidence exists to suggest that the Asset Purchase Agreement is anything but the product of arms' length negotiations between the Receiver, the Purchaser and their respective professional advisors. Accordingly, the Receiver requests the Court to find that the Purchaser has purchased the Assets in good faith within the meaning of section 363(m) of the Bankruptcy Code.

WAIVER OF BANKRUPTCY RULE 6004(h)

39. Bankruptcy Rule 6004(h) provides that an "order authorizing the use, sale, or lease of property . . . is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." The Receiver requests that the Proposed Order, once entered, be effective immediately by providing that, to the extent applicable, the 14-day stay under Bankruptcy Rule 6004(h) is waived.

40. The purpose of Bankruptcy Rule 6004(h) is to provide sufficient time for an objecting party to appeal before an order can be implemented. See Advisory Committee Notes to Fed. R. Bankr. P. 6004(h). Although Bankruptcy Rule 6004(h) and the Advisory

Committee Notes are silent as to when a court should "order otherwise" and eliminate or reduce the 14-day stay period, Collier on Bankruptcy suggests that the 14-day stay period should be eliminated to allow a sale or other transaction to close immediately "where there has been no objection to the procedure." 10 Collier on Bankruptcy 15th Ed. Rev., ¶6064.09 (L. King, 15th rev. ed. 1988). Furthermore, Collier's provides that if an objection is filed and overruled, and the objecting party informs the court of its intent to appeal, the stay may be reduced to the amount of time actually necessary to file such appeal. Id.

41. Time is of the essence with respect to the Proposed Order and the Canadian Sale Order. As of the filing of this Motion, the Receiver has been advised by the Purchaser that it intends to close the Sale as soon as possible after the entry of the Proposed Order. Moreover, the Receiver simply lacks sufficient funding to delay the closing of the Sale for any significant period of time beyond the hearing on this Motion. Therefore, the Receiver requests the Court to waive the 14-day stay period under Bankruptcy Rules 6004(h) to the extent applicable to the Proposed Order.

NOTICE

42. In accordance with this Court's *Order Specifying Form and Manner of Service of Notice of (I) Filing of (A) Petitions Pursuant to Chapter 15 of the Bankruptcy Code and (B) Receiver's Motion for Provisional and Final Relief In Recognition of a Foreign Main Proceeding Pursuant to Sections 105(a), 1519, 1520 and 1521 of the Bankruptcy Code; (II) Entry of Provisional Relief Order; (III) Deadline to Object to Entry of Recognition Order; and (IV) Hearing for Court to Consider Chapter 15 Petitions and Entry of Recognition Order* [Docket No. 20], notice of this Motion will provided to: (i) the United States Trustee; (ii) counsel for any known secured creditors of the Debtors; (iii) principal parties that have appeared

in the Canadian Receivership Proceeding; (iv) the Debtors; (v) the Internal Revenue Service; (vi) the Securities and Exchange Commission; (vii) any known creditors of the Debtors; and (viii) all parties which, as of the filing of this Motion, have requested notice in these Chapter 15 Cases. In light of the nature of the relief requested herein, the Receiver submits that no other or further notice of this Motion is necessary or required.

CONCLUSION

WHEREFORE, the Receiver respectfully requests this Court to enter an order, in substantially the form attached hereto as Exhibit B, granting the relief requested herein and such other and further relief as this Court deems just and proper.

Dated: Wilmington, Delaware
January 28, 2011

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Robert F. Poppiti, Jr.
Michael R. Nestor (No. 3256)
Donald J. Bowman, Jr. (No. 4383)
Robert F. Poppiti, Jr. (No. 5052)
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, Delaware 19801
Telephone: (302) 571-6600
Facsimile: (302) 571-1253

Attorneys for RSM Richter Inc., Receiver and Foreign Representative for the Debtors

<u>EXHIBIT A</u>

Asset Purchase Agreement

Exhibit "A"

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT made this 13th day of October, 2010.

BETWEEN:

RSM RICHTER INC., solely in its capacity as court-appointed receiver and manager of the property, assets and undertaking of the EarthRenew Companies (defined below), and not in its personal capacity (the "**Receiver**")

\- and -

0890241 B.C. LTD., a corporation duly incorporated under the laws of the Province of British Columbia (the "**Purchaser**")

WHEREAS by order of the Court (as defined below) dated September 15, 2010 (the "**Appointment Order**"), the Receiver was appointed as the receiver and manager in respect of the EarthRenew Companies (as defined below);

AND WHEREAS the Receiver has obtained or will obtain an order of the Court approving the Sale Process (as defined below) which includes approval of a "stalking horse bid";

AND WHEREAS the Purchaser desires to act as the "stalking horse bidder" and to purchase, and the Receiver wishes to sell, the right, title and interest of the EarthRenew Companies and the Receiver in the Assets (as defined below) (other than the Excluded Assets), on and subject to the terms of this Agreement;

NOW THEREFORE THIS Agreement witnesseth that in consideration of the mutual premises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

ARTICLE 1
DEFINED TERMS

1.1 **Definitions.**

In this Agreement:

"**Additional Project Document**" means any other contract or agreement related to the construction, commissioning, testing, maintenance, repair, operation or use of the Project entered into by any one or more of the EarthRenew Companies or the Receiver and any other Person prior to the Closing Date and that (a) replaces or substitutes for an existing Material Project Document, (b) the performance of or compliance by the EarthRenew Companies with which could require the Purchaser to make payments thereunder in excess of CDN$10,000 in any twelve month period;

"**Agreement**" and "**Agreement of Purchase and Sale**" means the within agreement of purchase and sale between the Receiver and the Purchaser, which agreement shall become effective upon execution of this Agreement by the Receiver;

"**Appointment Order**" has the meaning set out in the recitals hereto;

"**Approval and Vesting Order**" means the approval and vesting order to be issued by the Court;

"**Assets**" means all of the EarthRenew Companies' and Receiver's right, title and interest, in and to all of the tangible and intangible assets, properties, rights and Claims, wherever located, used, intended for use or arising in connection with the ownership, operation or conduct of the Business, including, without limitation, the Intellectual Property, Contracts, Equipment, Real Property, Books and Records and Warranty Rights (but not including any Excluded Assets), including, without limiting the generality of the foregoing, as further detailed on Exhibit "A" to the Terms and Conditions of Sale;

"**Auction**" has the meaning set out in Section 6.4 hereof;

"**Auction Rules**" has the meaning set out in Section 6.4 hereof;

"**Books and Records**" means all files, documents, instruments, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise), including tax and accounting books and records, used or intended for use by the Receiver, as the case may be, in connection with the ownership, operation or conduct of the Business or the Assets, including the Contracts, customer lists, customer information and account records, sales records, computer files, data processing records, employment and personnel records, sales literature, advertising and marketing data and records, credit records, records relating to suppliers and other data;

"**Break-Up Fee**" has the meaning set out in Section 6.2 hereof;

"**Business**" means the business heretofore carried on by the EarthRenew Companies, including the business of developing and protecting the technology associated with the production of organic matter fertilizer, the construction and upgrading of the Project and/or more plants for the production of organic matter fertilizer and the production of organic matter fertilizer;

"**Business Day**" means a day on which banks are open for business in the City of Calgary but does not include a Saturday, Sunday or statutory holiday in the Province of Alberta;

"**Claims**" means any claim (including any cross-claim or counterclaim), demand, investigation, chose in or cause of action, suit, default, assessment, litigation, third party action, arbitral proceeding or proceeding by or before any Person;

"**Closing**" means the successful completion of the Transaction;

"**Closing Date**" means the Business Day following the date on which the Approval and Vesting Order is granted or such other date as agreed to in writing by the parties hereto;

"**Closing Time**" means 2:00 p.m. (Calgary time) on the Closing Date;

"**Competing Bid**" has the meaning set out in Section 6.3 hereof;

"**Consents and Approvals**" means the consents and approvals of all relevant third parties;

"**Contracts**" means all of the contracts and other written agreements to which the EarthRenew Companies or each of them are parties, including, without limitation, the Material Project Documents;

"**Court**" means the Alberta Court of Queen's Bench;

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

"**Debentures**" means, collectively:

(a) a 5% convertible secured debenture dated January 4, 2010, bearing certificate number CSD-6 in the amount of US$2,744,349 in favour of Nile Capital I;

(b) a 5% convertible secured debenture dated May 18, 2010, bearing certificate number CSD-7 in the amount of US$3,255,651 in favour of Nile Capital II;

(c) a 5% convertible secured debenture dated August 12, 2010, bearing certificate number CSD-8 in the amount of US$228,696 in favour of Luxor Capital; and

(d) a 5% convertible secured debenture dated August 12, 2010 bearing certificate number CSD-9 in the amount of US$271,304 in favour of Luxor Master Fund;

"**EarthRenew Companies**" means, collectively, EarthRenew Corporation, EarthRenew, Inc., EarthRenew IP Holdings LLC, EarthRenew Strathmore 1 LP, EarthRenew Management General Partner Ltd., EarthRenew Solutions LP, EarthRenew Operational Employee LP, EarthRenew Management LP and EarthRenew Strathmore General Partner Ltd.;

"**ETA**" means the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended;

"**Equipment**" means all of the equipment and other machinery used by the EarthRenew Companies in connection with the Business;

"**Excluded Assets**" has the meaning set out in Section 3.2 hereof;

"**General Conveyance**" means the general conveyance substantially in the form of general conveyance attached as Schedule "A" hereto;

"**Governmental Authority**" means any Canadian (including federal or provincial), United States (including federal or state) or foreign (including national, supranational, provincial, territorial, regional, state, or local) governmental or regulatory agency, bureau, board, body, commission, commissioner, court, department, minister, tribunal, arbitration body (to the extent having jurisdiction over the relevant matter), authority, organization or instrumentality, including securities exchanges and quasi governmental entities;

"**HST**" means all taxes payable under the ETA;

"**Intellectual Property**" means, collectively, all of the EarthRenew Companies' and Receiver's right, title and interest in:

(a) all business and trade names, corporate names, brand names and slogans Related to the Business;

(b) all inventions, patents, patent rights, patent applications (including all reissues, divisions, continuations, continuations-in-part and extensions of any patent or patent application), industrial designs and applications for registration of industrial designs Related to the Business;

(c) all copyrights and trade-marks (whether used with wares or services and including the goodwill attaching to such trade-marks), registrations and applications for trade-marks and copyrights (and all future income from such trade-marks and copyrights) Related to the Business;

(d) all rights and interests in and to processes, lab journals, notebooks, data, trade secrets, designs, know-how, product formulae and information, manufacturing, engineering and other drawings and manuals, technology, blue prints, research and development reports, agency agreements, technical information, technical assistance, engineering data, design and engineering specifications, and similar materials recording or evidencing expertise or information Related to the Business;

(e) all other intellectual and industrial property rights throughout the world Related to the Business;

(f) all licences of the intellectual property listed in items (a) to (e) above;

(g) all future income and proceeds from any of the intellectual property listed in items (a) to (e) above; and

(h) all rights to damages and profits by reason of the infringement of any of the intellectual property listed in items (a) to (e) above.

"**ITA**" means the *Income Tax Act* (Canada), as amended;

"**Land Lease and Host Agreement**" means the land lease and host agreement between Cattleland Feedyards Ltd. and EarthRenew Organics Ltd. made and effective as of September 12, 2006;

"**Lead Bid**" has the meaning set out in Section 6.4 hereof;

"**Licences and Permits**" means all licences, permits, filings, authorizations, approvals or indicia of authority Related to the Business or necessary for the conduct of the Business;

"**Luxor**" means, collectively:

(a) Luxor Capital;

(b) Luxor Master Fund;

(c) Nile Capital I; and

(d) Nile Capital II;

"**Luxor Capital**" means Luxor Capital Partners, LP;

"**Luxor Debt**" means all amounts owing by the EarthRenew Companies to Luxor pursuant to the Debentures as at the Closing Time;

"**Luxor Master Fund**" means Luxor Capital Partners Offshore Master Fund, LP;

"**Material Project Documents**" means, collectively, the Land Lease and Host Agreement, all other contracts and other written agreements to which the EarthRenew Companies or each of them are parties relating to the Project and each Additional Project Document;

"**Nile Capital I**" means Nile Capital I S.a.r.l.;

"**Nile Capital II**" means Nile Capital II S.a.r.l.;

"**Notice**" has the meaning set out in Section 13.3 hereof;

"**Overbid Amount**" has the meaning set out in Section 6.4 hereof;

"**Permits**" means the authorizations, registrations, permits, certificates of approval, approvals, licenses, leases, consents, commitments, rights or privileges issued, granted or required by any Governmental Authority in respect of the Business;

"**Person**" means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted;

"**Priority Debt**" means the indebtedness arising pursuant to the Receiver's Charge and any other charge created under the Appointment Order, including, without limitation, all reasonable fees and expenses of the Receiver and its counsel, that are owing and that are not otherwise satisfied prior to Closing Time, and which, if they remain outstanding as at Closing, shall be paid in cash on Closing by the Purchaser, including any amounts secured by the Receiver's Borrowings Charge (as defined in the Appointment Order);

"**Project**" means the development, construction and operation of an organic matter fertilizer production plant situated in the Strathmore, Alberta, together with all buildings, structures or improvements erected on the site and the easements in connection therewith, all alterations thereto or replacements thereof, all fixtures, attachments, appliances, equipment, machinery and other articles and computer software or other Intellectual Property attached thereto or used in connection therewith and all parts which may from time to time be incorporated or installed in or attached thereto, all contracts and agreements for the purchase or sale of commodities or other personal property related thereto, all leases of real or personal property related thereto, and all other real and tangible and intangible personal property licensed, leased or owned by the EarthRenew Companies and placed upon or used in connection with the generation of organic matter fertilizer upon the site and the easements in connection therewith;

"**Purchase Price**" has the meaning set out in Section 4.1 hereof;

"**Real Property**" means the land and premises owned or leased by any of the EarthRenew Companies, together with all buildings and structures thereon and the fixtures (other than trade fixtures) affixed thereto, as well as all plans, designed and specifications in connection therewith;

"**Receiver's Charge**" has the meaning set out in the Appointment Order;

"**Related to the Business**" means, directly or indirectly, used in, arising from, or relating in any manner to the Business;

"**Sale Process**" has the meaning set out in Section 6.1 hereof;

"**Sale Process Order**" has the meaning set out in Section 6.1 hereof;

"**Secured Debt**" means the secured debt owed to each of Nile Capital I, Nile Capital II, Luxor Capital and Luxor Master Fund pursuant to the Debentures and accrued interest up to and including the Closing Date;

"**Stalking Horse Bid**" has the meaning set out in Section 6.1 hereof;

"**Superior Bid(s)**" has the meaning set out in Section 6.3 hereof;

"**Terms and Conditions of Sale**" means the Terms and Conditions of Sale attached as Schedule B hereto;

"**Transaction**" means the transaction of purchase and sale contemplated by this Agreement;

"**Warranty Rights**" means the full benefit of all warranties, warranty rights, performance bonds and indemnities (implied, express or otherwise) of the EarthRenew Companies against manufacturers, contractors or any other Person which apply to any of the Assets or the Business to the extent the same are capable of being assigned, including, without limitation pursuant to any Material Project Documents;

"**Winning Bid**" has the meaning set out in Section 6.4 hereof;

"**Winning Bid Agreement**" has the meaning set out in Section 6.4 hereof; and

"**Winning Bidder**" has the meaning set out in Section 6.4 hereof.

ARTICLE 2
SCHEDULES

2.1 **Schedules.**

The following schedules are incorporated in and form part of this Agreement:

Schedule	Description
Schedule A	General Conveyance (Form of)
Schedule B	Terms and Conditions of Sale

ARTICLE 3
AGREEMENT TO PURCHASE

3.1 **Assets to be Purchased and Sold.**

Relying on the representations and warranties herein, the Receiver hereby sells, assigns, conveys and transfers to the Purchaser and the Purchaser hereby purchases all right, title and interest of the EarthRenew Companies and the Receiver in and to the Assets (other than the Excluded Assets).

The Receiver hereby remises, releases and forever discharges to, and in favour of, the Purchaser, all of its rights, claims and demands whatsoever upon the Assets.

3.2 **Excluded Assets.**

Notwithstanding anything to the contrary in this Agreement, the Purchaser may, at its option, elect to exclude any of the Assets from this Agreement of Purchase and Sale, including, without limitation, any Contracts, Equipment or Real Property, by written notice given to the Receiver prior to the Closing Date (collectively, the "**Excluded Assets**") whereupon all such Assets shall be excluded from this Agreement of Purchase and Sale, provided, however, that there shall be no reduction or adjustment of the Purchase Price.

ARTICLE 4
PURCHASE PRICE, SATISFACTION OF PURCHASE PRICE AND TAXES

4.1 **Purchase Price.**

The Purchaser shall pay to the Receiver, in consideration for the sale, assignment, conveyance and transfer of the Assets to the Purchaser at Closing, the amount of CDN$5,100,000 and the Priority Debt, plus all applicable taxes (the "**Purchase Price**"); which shall be satisfied by some combination of the assumption of the Secured Debt and the Priority Debt and cash, subject to the reasonable discretion of the Receiver. For greater certainty, the Receiver hereby acknowledges and agrees that any agreement to assume all or part of the Secured Debt and/or the Priority Debt shall be valued on a dollar for dollar basis as if the Secured Debt and/or the Priority Debt were paid in cash. The Purchase Price shall be allocated among the Assets, as the Receiver and the Purchaser may agree, each acting reasonably.

ARTICLE 5
TAXES

5.1 **Taxes.**

The Purchaser will be liable for and will pay all value added, excise, sales, consumption, retail sales, land transfer, GST/HST and other taxes payable with respect to the purchase and sale of the Assets. Alternatively, where applicable, the Purchaser shall have the option to furnish the Receiver with appropriate tax exemption certificates.

The Receiver and the Purchaser will jointly execute and Purchaser shall file, on a timely basis and using the prescribed form, a joint election under section 22 of the ITA, and under the corresponding provisions of any applicable provincial legislation, with respect to the accounts receivables of the Business included in the Assets.

The Receiver and the Purchaser shall on or before the Closing Date, jointly execute an election, in the prescribed form and containing the prescribed information, to have section 167 of the ETA, and any similar provision of any applicable provincial legislation, apply in respect of the purchase and sale of the Assets hereunder so that no tax is payable in respect of such purchase and sale under Part IX of the ETA, and the Purchaser, or if applicable, the Receiver, shall file such election(s) within the time periods prescribed under such legislation.

5.2 **GST/HST Registration.**

The Purchaser agrees to indemnify and save the Receiver harmless from and against all claims and demands for payment of the GST/HST, including penalties and interest thereon and any liability or costs incurred as a result of any failure to pay such taxes when due.

ARTICLE 6
SALE APPROVAL PROCEEDINGS

6.1 **The Sale Process.**

The parties hereto acknowledge and agree that by no later than October 18, 2010, the Receiver shall obtain an order (the "**Sale Process Order**") from the Court which, *inter alia*, sets out the terms and conditions of and a timetable for a bidding, auction and sale process (the "**Sale Process**") with respect to the Assets. The Sale Process Order shall recognize this Agreement, and in particular the Purchase Price, as a baseline or "stalking horse bid" (the "**Stalking Horse Bid**"), and shall also provide for a marketing process of the Assets by the Receiver and a competitive bidding and auction procedure to be administered by the Receiver consistent with that reflected therein. The Purchaser acknowledges and agrees that the aforementioned process is in contemplation of determining whether a materially higher price than that contemplated in the Stalking Horse Bid can be obtained for the Purchased Assets.

The Sale Process Order will also include substantially the same terms and conditions as those contained in the Terms and Conditions of Sale, a draft copy of which is attached hereto as Schedule B. The Purchaser acknowledges and agrees that in addition to the terms and conditions contained herein, it shall be bound by such terms and conditions or those that are substantially similar to those contained in the attached Terms and Conditions of Sale.

6.2 **The Break-Up Fee.**

In consideration for the Purchaser's expenditure of time and money in acting as the Stalking Horse Bid and the preparation of this Agreement, and in performing due diligence pursuant to this Agreement, the Sale Process Order shall also provide for liquidated damages in the amount of CDN$150,000 (the "**Break-Up Fee**"), payable by the Receiver to the Purchaser in the event that a higher price obtained for the Assets through the Sale Process and, pursuant to and in accordance with the terms hereof, the Receiver sells all of the Assets to a Person or entity other than the Purchaser.

In the event that the Stalking Horse Bid is not chosen to be the Winning Bid, the Break-Up Fee shall be payable to the Purchaser out of the sale proceeds derived from the Winning Bid. Each of the parties hereto acknowledge and agree that the Break-Up Fee represents a fair and reasonable estimate of the costs and damages which will be incurred by the Purchaser as a result of non-completion of this Agreement, and is not intended to be punitive in nature nor to discourage competitive bidding for the Purchased Assets.

6.3 **Competing Bid(s).**

In addition to the foregoing, the Sale Process Order shall also provide that in order to be accepted by the Receiver, any bid competing with the Stalking Horse Bid for the Assets ("**Competing Bid(s)**") must be on substantially the same terms and conditions as the terms and conditions contained in this Agreement, except with respect to price (any Competing Bid(s) that are accepted by the Receiver as superior bid(s) to the Stalking Horse Bid are referred to herein as the "**Superior Bid(s)**").

In order for any Competing Bids to be accepted by the Receiver as a Superior Bid to the Stalking Horse Bid, the Competing Bid must at minimum meet all of the following criteria:

(a) the Competing Bid must be received by the Receiver, in its entirety, by no later than 5:00 p.m. (Calgary time) on November 15, 2010;

(b) the Competing Bid must be accompanied by a duly executed agreement of purchase and sale, blacklined against this Agreement, showing any and all variations from this Agreement, and a deposit in the amount of fifteen percent (15%) of the purchase price stated in the Competing Bid by way of bank draft or certified cheque payable pursuant to the terms of the subject Competing Bid and which is not subject to any encumbrances;

(c) the Competing Bid must remain open for acceptance and completion until 11:59 p.m. (Calgary time) on November 19, 2010;

(d) the Competing Bid must be on terms no less favourable and no more burdensome or conditional than the terms of the Stalking Horse Bid and those contained in this Agreement, and must contemplate the purchase of all of the Assets;

(e) the Competing Bid must not contain any contingency relating to due diligence or financing or any other material conditions precedent to the bidder's obligation to close that are not otherwise contained in the Stalking Horse Bid or this Agreement;

(f) the Competing Bid must specify the assets that are subject to the Competing Bid, including, without limitation, any executory contracts and unexpired leases;

(g) the Competing Bid must be made by one or more bidders who can demonstrate, in the aggregate in the event that the Competing Bid is made by more than one bidder, committed and unconditional financing sufficient to consummate the transaction contemplated by the Competing Bid on the terms specified therein;

(h) the Competing Bid must be for an aggregate purchase price at least equal to the Purchase Price, as provided herein, plus the Break-Up Fee plus the Overbid Amount; and

(i) unless otherwise agreed to in writing by the Receiver or provided for herein, the Competing Bid must provide for an all cash purchase price to be paid on closing.

6.4 **The Auction Process and the Winning Bid.**

Furthermore, the Sale Process Order shall provide that on or before 5:00 p.m. (Calgary time) on November 18, 2010, the Receiver will distribute to the Purchaser and the makers of the Superior Bids, the following:

(a) an invitation to an auction of the Assets to be held on or before 5:00 p.m. (Calgary time) November 24, 2010 at the offices of the Receiver, or otherwise as may be determined by the Receiver, in its sole discretion (the "**Auction**");

(b) a copy of the bid that the Receiver, acting in its sole and unfettered discretion, having regard to all of the features of the bids, believes to be the most favourable bid as between the Stalking Horse Bid and all of the Superior Bids (the "**Lead Bid**"); and

(c) a copy of a set of rules for the conduct of the Auction, established by the Receiver, acting in its sole and unfettered discretion, with a view of maximizing the price for the Assets (the "**Auction Rules**") (provided that the Auction Rules shall in all events provide that all bids made at the Auction shall be in accordance with the terms and conditions of the Lead Bid, except for the aggregate purchase price which will be subject to improvement through bidding in the Auction; each bid made in the course of the Auction shall exceed the aggregate purchase price payable pursuant to the preceding bid (or, in the case of the first bid made at the Auction, the Lead Bid) by no less than CDN$25,000 increments solely for the purpose of determining the successful bid at the

Auction; provided, however, for greater certainty, any bid made by any participant at the Auction shall have added to it the Break-Up Fee and the amount of CDN$75,000 (the "**Overbid Amount**"); and the highest bid received at the Auction shall be the "winning bid" (the "**Winning Bid**").

Any incremental amount to the bid by the Purchaser in the context of the Auction may be satisfied by a cash payment or, to the extent that any such incremental amount is an amount to which Luxor is entitled (but only to that extent), by the assumption by the Purchaser of that amount of the unsecured debt of the EarthRenew Companies owed to Luxor.

Upon acceptance of the Winning Bid at the Auction, there shall be a binding agreement of purchase and sale between the successful winning bidder (the "**Winning Bidder**") and the Receiver (the "**Winning Bid Agreement**"). The Winning Bid Agreement shall be constituted by:

(a) the Stalking Horse Bid or one of the Superior Bids, as the case may be, as amended pursuant to the Auction;

(b) the Terms and Conditions of Sale; and

(c) the acceptance of the Winning Bid.

The Receiver will make a motion to the Court, forthwith, to obtain an order to approve the agreement with the Winning Bidder and to vest the Assets in the Winning Bidder. Thereafter, the Receiver will advise the Purchaser of the outcome of the said motion and proceed with closing the transaction forthwith.

6.5 **Court Specified Time Periods.**

Where any of the time periods specified in Sections 6.1 through 6.4 of this Agreement, inclusive, are subject to be established by Court Order, in the event that the Court establishes a date different than the date set out in this Agreement, then the corresponding date established by such provisions of this Agreement shall be deemed to be amended to accord with the Court established date, provided that no such amendment shall be deemed to have occurred without the express written consent of the Purchaser if the effect of such amendment is to delay the Closing Date by any period greater than thirty (30) days.

ARTICLE 7
CONDITIONS PRECEDENT TO CLOSING

7.1 **Conditions In Favour of the Receiver.**

The obligation of the Receiver to complete the agreement of purchase and sale contained herein is subject to the satisfaction of the following conditions on or before the Closing Date:

(a) the representations and warranties of the Purchaser contained in Article 10 and Article 5 shall be true and correct on the Closing Date;

(b) all covenants of the Purchaser under this Agreement to be performed on or before the Closing Time shall have been duly performed by the Purchaser;

(c) the Court shall have appointed the Receiver, approved the Sale Process substantially on the terms and conditions contained in this Agreement and shall have made the Approval and Vesting Order;

(d) the Purchaser shall have complied with all terms and conditions contained in this Agreement applicable to it prior to the Closing Date;

(e) all Consents and Approvals shall have been obtained; and

(f) the Purchaser shall have executed and delivered the General Conveyance.

7.2 **Conditions in Favour of Receiver Not Fulfilled.**

If any of the conditions contained in Section 7.1 hereof in favour of the Receiver are not fulfilled on or prior to the Closing Date, then the Receiver may, in its sole discretion, without limiting its rights or remedies available at law or in equity:

(a) terminate this Agreement by notice to the Purchaser in which event the Purchaser and the Receiver shall be released from their obligations under this Agreement to complete the purchase and sale of the Assets contemplated hereby; or

(b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

7.3 **Conditions In Favour of the Purchaser.**

The obligation of the Purchaser to complete the agreement of purchase and sale contained herein is subject to the satisfaction of the following conditions on or before the Closing Date:

(a) the representations and warranties of the Receiver contained in Article 9 and Article 5 shall be true and correct on the Closing Date;

(b) all covenants of the Receiver under this Agreement to be performed on or before the Closing Time shall have been duly performed by the Receiver;

(c) the Court shall have approved the transactions contemplated by this Agreement and the Receiver shall have received the Approval and Vesting Order;

(d) an order shall have been issued by the United States Bankruptcy Court, in form and substance satisfactory to the Receiver and the Purchaser, each acting reasonably, to facilitate the completion of the Transaction;

(e) the Land Lease and Host Agreement shall either have been:

(i) assigned to the Purchaser with the written consent of the other parties thereto; or

(ii) fully vested in the Purchaser pursuant to the Approval and Vesting Order;

(f) the Receiver shall have complied with all terms and conditions contained in this Agreement applicable to it prior to the Closing Date;

(g) all Consents and Approvals and Permits shall have been obtained;

(h) the Receiver shall have executed and delivered the General Conveyance; and

(i) the Purchaser shall have received executed originals or certified copies of each Contract.

7.4 **Conditions in Favour of Purchaser Not Fulfilled.**

If any of the conditions contained in Section 7.3 hereof in favour of the Purchaser are not fulfilled on or prior to the Closing Date, then the Purchaser may, in its sole discretion, without limiting its rights or remedies available at law or in equity:

(a) terminate this Agreement by notice to the Receiver in which event the Purchaser and the Receiver shall be released from their obligations under this Agreement to complete the purchase and sale of the Assets contemplated hereby; or

(b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

ARTICLE 8
POSSESSION AND ACCESS PRIOR TO CLOSING

8.1 **Possession of Assets.**

The Receiver shall remain in possession of the Assets until the Time of Closing. On Closing, the Purchaser shall take possession of the Assets where situate at the Time of Closing. The Purchaser acknowledges that the Receiver has no obligation to deliver physical possession of the Assets to the Purchaser. In no event shall the Assets be sold, assigned, conveyed and transferred to the Purchaser until the conditions set out in the Approval and Vesting Order have been satisfied or waived and the Purchaser has satisfied or the Receiver has waived all delivery requirements outlined in Section 7.1. The Purchaser shall promptly notify the Receiver of any Excluded Assets which may come into the possession or control of the Purchaser after the Time of Closing, and shall promptly release such Excluded Assets to the Receiver, or to such other Person as the Receiver may direct in writing.

8.2 **Access to Assets.**

The Purchaser may have reasonable access to the Assets, as the case may be, during normal business hours prior to the Time of Closing for the purpose of enabling the Purchaser to conduct such non-destructive, non-invasive inspections of the Assets as it deems appropriate. Such inspection shall only be conducted in the presence of a representative of the Receiver.

8.3 **Risk.**

The Assets shall be and remain at the risk of the Receiver until Closing and at the risk of the Purchaser from and after Closing. If, prior to Closing, the Assets are substantially damaged or destroyed by fire, casualty or otherwise, then, at its option, the Purchaser may decline to complete the Transaction. Such option shall be exercised within fifteen (15) days after notification to the Purchaser by the Receiver of the occurrence of damage or destruction (or prior to the Closing Date if such occurrence takes place within fifteen (15) days of the Closing Date) in which event this Agreement shall be terminated automatically. If the Purchaser does not exercise such option, it shall complete the Transaction and shall be entitled to an assignment of any proceeds of insurance referable to such damage or destruction. Where any damage or destruction is not substantial, the Purchaser shall complete the Transaction and shall be entitled to an assignment of any proceeds of insurance referable to such damage or destruction. For the purposes of this section substantial damage or destruction shall be deemed to have occurred if the loss or damage to the Assets exceeds fifteen percent (15%) of the total Purchase Price. If any dispute arises under this section as to whether damage or destruction is substantial, such dispute will be determined in accordance with Section 8.4 herein.

8.4 **Dispute Resolution.**

If any dispute arises (a) under Section 8.3 as to whether any damage or destruction is substantial, (b) with respect to the dollar amount of the Assets, or (c) with respect to any other matter related to the Transaction, such dispute will be determined by the Court in the receivership proceedings, or by such other Person or in such other manner as the Court may direct.

ARTICLE 9
REPRESENTATIONS & WARRANTIES OF THE RECEIVER

The Receiver represents and warrants to the Purchaser as follows with the knowledge and expectation that the Purchaser is placing complete reliance thereon and, but for such representations and warranties, the Purchaser would not have entered into this Agreement:

9.1 **Due Authorization.**

The Receiver has all necessary power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by all necessary action on the part of the Receiver. This Agreement is a valid and binding obligation of the Receiver enforceable in accordance with its terms.

9.2 **Duly Appointed.**

The Receiver has been duly appointed the receiver and manager of all of the assets of the EarthRenew Companies, with the full right, power and authority to enter into this Agreement, perform its obligations hereunder and convey all right, title and interest of the EarthRenew Companies and the Receiver in and to the Assets.

ARTICLE 10
PURCHASER'S REPRESENTATIONS & WARRANTIES

The Purchaser represents and warrants to the Receiver as follows with the knowledge and expectation that the Receiver is placing complete reliance thereon and, but for such representations and warranties, the Receiver would not have entered into this Agreement:

10.1 **Due Incorporation.**

The Purchaser is a corporation duly incorporated and validly subsisting under the laws of the Province of British Columbia.

10.2 **Due Authorization.**

The Purchaser has all necessary corporate power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution and delivery of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by all necessary corporate action on the part of the Purchaser. This Agreement is a valid and binding obligation of the Purchaser enforceable in accordance with its terms.

10.3 **No Bankruptcy, etc.**

The Purchaser has not committed an act of bankruptcy, is not insolvent, has not proposed a compromise or arrangement to its creditors generally, has not had any application for a bankruptcy order filed against it, has not taken any proceeding and no proceeding has been taken to have a receiver appointed over any of its assets, has not had an encumbrancer take possession of any of its property and has not had any execution or distress become enforceable or levied against any of its property.

ARTICLE 11
COVENANTS

11.1 **Mutual Covenants.**

Each of the Receiver and the Purchaser hereby covenants and agrees that from the date hereof until the Closing Date, each shall take all such actions as are necessary to, in the event that there are no Competing Bids and the Receiver determines that the liquidation value of the EarthRenew Companies is less than the Stalking Horse Bid, have the transactions contemplated by this Agreement approved in the Approval and Vesting Order on substantially the same terms and conditions contained in this Agreement.

11.2 **Receiver Covenants.**

The Receiver hereby covenants and agrees that from the date hereof until the Closing Date, it shall take all such actions as are necessary to:

(a) as at the Closing Time, be registered for purposes of Part IX of the ETA; and

(b) at least twenty-four (24) hours prior to the Closing Date:

(i) amend the charter documents of each of the EarthRenew Companies and take all other actions necessary to change each of their names to one sufficiently dissimilar to the "EarthRenew" name, in the Purchaser's judgment, to avoid confusion; and

(ii) provide all such consents and undertakings as may be requested by the Purchaser to enable the Purchaser to change its name to the names currently used by the EarthRenew Companies or to otherwise enjoy full use of those names;

(c) provide to the Purchaser all necessary information in respect of the EarthRenew Companies reasonably required to complete the applicable tax election forms associated with the transactions contemplated by this Agreement and to execute all necessary forms related thereto.

11.3 **Purchaser Covenants.**

The Purchaser hereby covenants and agrees that, except as expressly contemplated in this Agreement, from the date hereof until the Closing Date, it shall take all such actions as are necessary to:

(a) as at the Closing Time, be registered for purposes of Part IX of the ETA; and

(b) provide to the Receiver all necessary information in respect of the Purchaser reasonably required to complete the applicable tax election forms associated with the transactions contemplated by this Agreement and to execute all necessary forms related thereto.

ARTICLE 12
AS IS, WHERE IS

12.1 **Condition of the Assets.**

The Purchaser acknowledges that the Receiver is selling and the Purchaser is purchasing the Assets on an *"as is, where is"* and *"without recourse"* basis as they shall exist on the Closing Date. The Purchaser further acknowledges and agrees that it has entered into this Agreement on the basis that neither the EarthRenew Companies nor the Receiver has guaranteed or will guarantee title to the Assets, that the Purchaser has conducted such inspections of the condition and title to the Assets as it deems appropriate and has satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrance, description, fitness for purpose, environmental compliance, merchantability, condition or quality, or in respect of any other matter or thing whatsoever concerning the Assets, or the right of the Receiver to sell, assign, convey or transfer same save and except as expressly provided for in this Agreement. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Alberta) do not apply hereto and/or have been waived by the Purchaser. The description of the Assets contained in this Agreement is for the purpose of identification only and no representation, warranty or condition has or will be given by the Receiver concerning the accuracy of such description.

ARTICLE 13
GENERAL CONTRACT PROVISIONS

13.1 **Further Assurances.**

From time to time after Closing, each of the parties hereto shall execute and deliver such further documents and instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement and which are not inconsistent with the terms hereof, including, at the Purchaser's request and expense, the Receiver and/or the EarthRenew Companies shall execute and deliver such additional conveyances, transfers and other assurances as may, in the opinion of the Purchaser or the Purchaser's counsel, be reasonably required to effectually to carry out the intent of this Agreement and transfer the Assets to the Purchaser.

13.2 **Tax Minimization.**

Each party will cooperate to the extent practicable in minimizing all taxes and fees levied by reason of the sale, assignment, conveyance or transfer of the Assets pursuant to this Agreement. Neither party hereto will pay any tax that the other party is required to pay without such other party's prior written consent, which consent will not be unreasonably withheld or delayed.

13.3 **Notice.**

All notices, requests, demands, waivers, consents, agreements, approvals, communications or other writings required or permitted to be given hereunder or for the purposes hereof ("**Notice**" in this Article) will be in writing and be sufficiently given if personally delivered, sent by prepaid registered mail or transmitted by facsimile, addressed to the party to whom it is given, as follows:

(a) to the Receiver:

RSM Richter Inc.
Bow Valley Square 2
3810, 205 - 5 Avenue SW
Calgary, AB T2P 2V7
Canada

Attention: Robert Taylor
Tel: (403) 233-7112
Fax: (403) 206-0841
Email: BTaylor@RSMRichter.com

(b) and to the Purchaser:

0890241 B.C. Ltd.
c/o Luxor Capital Group, LP
1114 Avenue Of The Americas, 29th Floor
New York, NY 10036
United States of America

Attention: Norris Nissim
Tel: (212) 763-8041
Fax: (646) 786-4541
Email: NNissim@luxorcap.com

or such other address of which Notice has been given. Any Notice mailed as aforesaid will be deemed to have been given and received on the third business day following the date of its mailing. Any Notice personally delivered will be deemed to have been given and received on the day it is personally delivered, provided that if such day is not a business day, the Notice will be deemed to have been given and received on the business day next following such day. Any Notice transmitted by facsimile or PDF will be deemed given and received on the first business day after its transmission.

If a Notice is mailed and regular mail service is interrupted by strike or other irregularity on or before the fourth business day after the mailing thereof, such Notice will be deemed to have not been received unless otherwise personally delivered or transmitted by facsimile or PDF.

13.4 **Arrears.**

Notwithstanding any other provision of this Agreement, the Receiver shall be under no obligation to pay any arrears associated with the use of the Assets and the Purchaser agrees to receive the conveyance of the Assets subject to any arrears as may exist at Closing.

13.5 **Waiver.**

No party will be deemed or taken to have waived any provision of this Agreement unless such waiver is in writing and such waiver will be limited to the circumstance set forth in such written waiver.

13.6 **Governing Law.**

This Agreement will be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein. The parties irrevocably attorn to the jurisdiction of the courts of the Province of Alberta.

13.7 **Entire Agreement.**

This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements and understandings between the parties. There are not and will not be any verbal statements, representations, warranties, undertakings or agreements between the parties.

This Agreement may not be amended or modified in any respect except by written instrument signed by both parties. The recitals set out above are true, both in substance and in fact.

13.8 **Time of the Essence.**

Time will be of the essence, provided that if the parties establish a new time for the performance of an obligation, time will again be of the essence of the new time established.

13.9 **Assignment.**

This Agreement will enure to the benefit of and be binding on the parties and their respective heirs, executors, legal and personal administrators, successors and permitted assigns. The Purchaser shall not assign this Agreement without the Receiver's prior written approval, which approval may be granted or withheld in the Receiver's sole and unfettered discretion.

13.10 **Expenses.**

Except as otherwise set out in this Agreement, all costs and expenses (including, without limitation, the fees and disbursements of legal counsel) incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such expenses.

13.11 **Severability.**

If any covenant or provision of this Agreement is prohibited in whole or in part in any jurisdiction, such covenant or provision shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining covenants and provisions hereof and shall, as to such jurisdiction, be deemed to be severed from this Agreement to the extent of such prohibition.

13.12 **Counterparts.**

This Agreement may be executed in counterparts and by facsimile or PDF, each of which when so executed will be deemed to be an original and such counterparts together will constitute one and the same instrument

13.13 **Capacity of Receiver.**

The Purchaser acknowledges and agrees that the Receiver in executing this Agreement does so solely in its capacity as a court appointed receiver under the provisions of the *Bankruptcy and Insolvency Act* (Canada), and not in its personal capacity.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF this Agreement has been executed by the parties.

RSM RICHTER INC., in its capacity of receiver and manager of the property, assets and undertaking of the EarthRenew Companies, and not in its personal capacity

Per: ______________________

Name: Robert Taylor

Title: vice-president

0890241 B.C. LTD., a corporation duly incorporated under the laws of the Province of British Columbia

Per: ______________________

Name: NORRIS NISSIM

Title: VICE PRESIDENT

Per: ______________________

Name:

Title:

SCHEDULE "A"

FORM OF GENERAL CONVEYANCE

THIS CONVEYANCE made this _____ day of _________, 2010.

BY:

RSM RICHTER INC., solely in its capacity as court-appointed receiver and manager of the property, assets and undertaking of the EarthRenew Companies (as hereinafter defined), as not in its personal capacity

(the "**Vendor**")

IN FAVOUR OF:

0890241 B.C. LTD., a corporation duly incorporated under the laws of the Province of British Columbia

(the "**Purchaser**")

WHEREAS the Vendor was appointed by Order of the Alberta Court of the Queen's Bench dated September 15, 2010, as the receiver and manager of EarthRenew Corporation, EarthRenew, Inc., EarthRenew IP Holdings LLC, EarthRenew Strathmore 1 LP, EarthRenew Strathmore General Partner Ltd., EarthRenew Solutions LP, EarthRenew Operational Employee LP, EarthRenew Management LP and EarthRenew Management General Partner Ltd. (collectively, the "**EarthRenew Companies**");

AND WHEREAS by Agreement of Purchase and Sale (the "**Agreement**") made October 13, 2010, between the Vendor and the Purchaser, the Vendor, subject to obtaining court approval, agreed to transfer to the Purchaser its right, title and interest and the right, title and interest of the EarthRenew Companies in and to the Assets, as defined therein;

AND WHEREAS by Order(s) dated ___, 2010 (the "**Approval and Vesting Order**") the Agreement and the transactions provided for therein were approved and the Assets (as defined in the Agreement) (excluding the Excluded Assets) (as defined in the Agreement), were vested in the Purchaser conditional on the filing of the Vendor's receiver / manager vesting certificate;

NOW THEREFORE THIS CONVEYANCE WITNESSETH that as part of the completion of the sale, assignment, conveyance and transfer referred to above and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto:

1. The Vendor hereby sells, assigns, conveys and transfers to the Purchaser, and the Purchaser hereby accepts, all of the EarthRenew Companies' and the Vendor's right, title and interest in and to the Assets (excluding the Excluded Assets).

2. Pursuant to the Agreement and the Approval and Vesting Order, and subject to any limitations therein contained, the Purchaser is now rightfully and absolutely possessed of and entitled to the Assets and has good right, title and interest to such assets and shall immediately, upon execution and delivery of this Agreement, have possession of and may from time to time and at all times hereafter peaceably and quietly have, hold, possess and enjoy the Assets and every part thereof to and for its own use and benefit without any hindrance, interruption, molestation, claim or demand whatsoever, of, from or by the Vendor or any of the EarthRenew Companies.

3. The rights and remedies conferred under this Conveyance are not intended to be exclusive of any other rights or remedies available to either the Purchaser or Vendor in connection with the breach or failure of any of the covenants, warranties, representations or other obligations of the other party given in this Conveyance or the Agreement, and nothing contained in this Conveyance shall be construed in any manner as restricting or derogating from any other such rights or remedies.

4. Each of the parties hereto shall execute and deliver such further documents and instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement and which are not inconsistent with the terms hereof, including, at the Purchaser's request and expense, the Vendor and/or the EarthRenew Companies shall execute and deliver such additional conveyances, transfers and other assurances as may, in the opinion of the Purchaser or the Purchaser's counsel, be reasonably required to effectually to carry out the intent of this Agreement and transfer the Assets to the Purchaser.

5. To the extent that there is a conflict between the terms of this Conveyance and the Agreement, the terms and provisions of the Agreement shall govern.

6. This Conveyance will be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein. The parties irrevocably attorn to the jurisdiction of the courts of the Province of Alberta.

7. This Agreement will enure to the benefit of and be binding on the parties and their respective heirs, executors, legal and personal administrators, successors and permitted assigns.

8. This Conveyance may be executed in counterparts and by facsimile or PDF, each of which when so executed will be deemed to be an original and such counterparts together will constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF the parties hereto have duly executed this Conveyance as of the date first above written.

RSM RICHTER INC., in its capacity of receiver and manager of the property, assets and undertaking of the EarthRenew Companies, and not in its personal capacity

Per: ______________________________

Name: Robert Taylor

Title:

0890241 B.C. LTD., a corporation duly incorporated under the laws of the Province of British Columbia

Per: ______________________________

Name:

Title:

Per: ______________________________

Name:

Title:

SCHEDULE "B"

TERMS AND CONDITIONS OF SALE

1. THE VENDOR

1.1 RSM Richter Inc., solely in its capacity as court-appointed receiver and manager (the "**Receiver**" and/or the "**Vendor**") of EarthRenew Corporation, EarthRenew, Inc., EarthRenew IP Holdings LLC, EarthRenew Strathmore 1 LP, EarthRenew Strathmore General Partner Ltd., EarthRenew Solutions LP, EarthRenew Operational Employee LP, EarthRenew Management LP and EarthRenew Management General Partner Ltd. (collectively, the "**EarthRenew Companies**") and their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate (collectively, the "**Assets**"), is offering for sale by bid and auction all of the Assets. A non-exhaustive list of the Assets for sale is outlined on Exhibit "A" attached hereto.

1.2 The Receiver has obtained an Order of the Albert Court of Queen's Bench dated October ___, 2010 (collectively, the "**Sale Process Order**") which sets out, *inter alia*, the terms, conditions of sale and a timetable for bidding and an auction with respect to the purchase and sale of the Assets (the "**Sale Process**").

2. THE SALE PROCESS

2.1 The Sale Process Order recognizes the initial bid from 0890241 B.C. Ltd. (the "**Purchaser**"). The initial bid by the Purchaser is contained in an Agreement of Purchase and Sale dated as of October 13, 2010, executed by the Purchaser (the "**Agreement of Purchase and Sale**") as a baseline or "stalking horse bid" (the "**Stalking Horse Bid**"), in the amount of the Purchase Price (as defined in the Agreement of Purchase and Sale), as further provided in the Agreement of Purchase and Sale, plus any and all retail sales taxes (including any goods and services taxes) and all other transfer taxes, duties or other like charges payable upon or in connection with the subject transaction (collectively, the "**Taxes**").

2.2 The Sale Process Order provides for, *inter alia*, the marketing and sale of the Assets by the Receiver and a competitive bidding and auction procedure, to be administered by the Receiver, in order to determine if a materially higher price (compared to the Stalking Horse Bid) can be obtained for the sale of the Assets.

2.3 In consideration for the Purchaser's expenditure of time and money in acting as the initial bidder in the Stalking Horse Bid and the preparation of the Agreement of Purchase and Sale, and in performing due diligence pursuant to the Agreement of Purchase and Sale, the Sale Process Order provides for liquidated damages in the amount of CDN$150,000 (the "**Break-Up Fee**"), payable by the Receiver to the Purchaser in the event that a materially higher offer than the offer advanced by the Purchaser pursuant to the Stalking Horse Bid is obtained for the Assets through the Sale Process and, as a consequence, the Vendor sells all of the Assets to a Person or entity other than the Purchaser.

2.4 In addition, the Sale Process Order provides that in order to be accepted by the Receiver, any bid competing with the Stalking Horse Bid for the Assets ("**Competing Bid(s)**") must be on substantially the same terms and conditions as those terms and conditions contained in the Agreement of Purchase and Sale, except with respect to price (any Competing Bid(s) that are accepted by the Vendor as superior bid(s) to the Stalking Horse Bid are referred to herein as the "**Superior Bid(s)**").

2.5 In order for any Competing Bid to be accepted by the Receiver as a Superior Bid to the Stalking Horse Bid, the Competing Bid must meet all of the following minimum criteria:

(d) the Competing Bid must be received by the Receiver, in its entirety, by no later than 5:00 p.m. (Calgary time) on November 15, 2010;

(e) the Competing Bid must be accompanied by a duly executed agreement of purchase and sale, blacklined against the Agreement of Purchase and Sale, showing any and all variations from the Stalking Horse Bid, and a deposit in the amount of fifteen percent (15%) of the purchase price stated in the Competing Bid (the "**Deposit**") by way of bank draft or certified cheque payable pursuant to the terms of the subject Competing Bid and which is not subject to any encumbrances;

(f) the Competing Bid must remain open for acceptance and completion until 11:59 p.m. (Calgary time) on November 19, 2010;

(g) the Competing Bid must be on terms no less favourable and no more burdensome or conditional than the terms of the Stalking Horse Bid and those contained in the Agreement of Purchase and Sale and must contemplate the purchase of all of the Assets;

(h) the Competing Bid must not contain any contingency relating to due diligence or financing or any other material conditions precedent to the bidder's obligation to close that are not otherwise contained in the Stalking Horse Bid and in the Agreement of Purchase and Sale;

(i) the Competing Bid must specify the assets that are subject to the Competing Bid, including, without limitation, any executory contracts and unexpired leases;

(j) the Competing Bid must be made by one or more bidders who can demonstrate, in the aggregate in the event that the Competing Bid is made by more than one bidder, committed and unconditional financing sufficient to consummate the transaction contemplated by the Competing Bid on the terms specified therein;

(k) the Competing Bid must be for an aggregate purchase price at least equal to the aggregate purchase price stipulated in the Stalking Horse Bid, plus the Break-Up Fee plus the Overbid Amount (as the term is defined below); and

(l) unless otherwise agreed to in writing by the Receiver or provided for in the Agreement of Purchase and Sale, the Competing Bid must provide for an all cash purchase price to be paid on closing.

3. COMPETING BID OFFERS

3.1 Sealed bids marked "DO NOT OPEN – BID – EARTHRENEW CORPORATION" shall be delivered or mailed postage prepaid to RSM Richter Inc., Receiver of the EarthRenew Corporation, Attention: Robert Taylor, so as to be received by the Receiver on or before 5:00 p.m. (Calgary time) on November 15, 2010.

3.2 Every Competing Bid must be in writing and submitted in the form of an amended Agreement of Purchase and Sale, as provided herein. Any Competing Bids received by the Receiver that are not in the correct form may be rejected immediately by the Receiver, acting in its sole and unfettered discretion.

3.3 The opening of any Competing Bid(s) received by the Receiver will be conducted in private and in the presence of representatives of the Receiver and its solicitors.

3.4 In consideration of the Receiver receiving any Competing Bid and upon receipt by the Receiver of any such Competing Bid, the competing bidder shall not be entitled to retract, withdraw, revoke, vary or countermand its Competing Bid.

3.5 In the event that any Competing Bids received by the Receiver are on substantially the same terms, conditions and/or amounts of one another, the Receiver may, subject to the approval of the Court, call upon such competing bidders to submit further bids.

3.6 No Competing Bid may contain proposals to vary, amend or supplement these Terms and Conditions of Sale.

3.7 Any documentation or other materials provided to prospective bidders relating to the Assets have been prepared solely for the convenience of prospective bidders and is not warranted to be complete or accurate, and do not form part of these Terms and Conditions of Sale. Every bidder shall be deemed to have relied entirely on its own inspection and investigation of the Assets and the title thereto.

3.8 By submitting an offer to purchase the Assets, the bidder acknowledges that it has inspected the Assets and that the Assets are being sold on an *"as is, where is"* basis at the time of closing and that there is no representation, warranty or condition, expressed or implied, statutory or otherwise, as to title, encumbrances, description, fitness for any purpose, merchantability, quality, quantity, state, condition (environmental or otherwise), defect (patent or latent), existence, location, value, the validity or enforceability of any rights (including intellectual property rights, any requirement for licenses, permits, approvals, consents for ownership, occupation or use or compliance with any government laws, regulations, bylaws and orders or in respect of any other matter or thing whatsoever. The Assets are specifically offered, as they now exist with no adjustments to be allowed for changes in conditions, qualities or quantities of such parcels from the date hereof to the Closing Date (as the term is defined below) of the contemplated transaction. The bidder acknowledges that the Receiver is not required to inspect or count, or provide any inspection or counting, of the Assets or any part thereof and the bidder shall be deemed, at its own expense, to have relied entirely on its own inspection and investigation. It shall be the bidder's sole responsibility to obtain, at its own expense, any consents to such transfer of the Assets and any further documents or assurances which are necessary or desirable in the circumstances.

3.9 The Receiver, at its sole and unfettered discretion, may waive or vary any or all of the terms and conditions contained hereof.

4. DEPOSIT

4.1 Competing Bids shall be stated in Canadian currency and must be accompanied by the Deposit in the form of a draft of or a cheque certified by a Canadian bank payable to "RSM Richter Inc., Receiver of EarthRenew Corporation, in trust." If a Competing Bid is accepted to be the Winning Bid (as the term is defined below), the subject deposit shall be deemed to be a cash deposit and will be applied by the Vendor towards the purchase price of the Assets on closing of the contemplated transaction.

4.2 Cheques accompanying Competing Bids as the Deposit that are not accepted by the Receiver to be Superior Bids will be returned to the respective bidder(s) by prepaid ordinary mail addressed to the respective competing bidders at the address set out in their offers on or before 5:00 p.m. (Calgary time) on November 19, 2010, without interest.

5. THE AUCTION PROCESS AND THE WINNING BID

5.1 On or before 5:00 p.m. (Calgary time) on November 18, 2010, the Receiver will distribute to the Purchaser and the makers of the Superior Bids, the following:

(a) an invitation to an auction of the Assets to be held on or before 5:00 p.m. (Calgary time) on or before November 24, 2010 at the offices of the Receiver, or otherwise as may be determined by the Receiver, in its sole discretion (the "**Auction**");

(b) a copy of the bid that the Receiver, acting in its sole and unfettered discretion, having regard to all of the features of the bids, believes to be the most favourable bid as between the Stalking Horse Bid and all of the Superior Bids (the "**Lead Bid**"); and

(c) a copy of a set of rules for the conduct of the Auction, established by the Receiver, acting in its sole and unfettered discretion, with a view of maximizing the price for the Assets (the "**Auction Rules**") (provided that the Auction Rules shall in all events provide that all bids made at the Auction shall be in accordance with the terms and conditions of the Lead Bid, except for the aggregate purchase price which will be subject to improvement through bidding in the Auction; each bid made in the course of the Auction shall exceed the aggregate purchase price payable pursuant to the preceding bid (or, in the case of the first bid made at the Auction, the Lead Bid) by no less than CDN$25,000 increments solely for the purpose of determining the successful bid at the Auction; provided, however, for greater certainty, any bid made by any participant at the Auction shall have added to it the Break-Up Fee and the amount of CDN$75,000 (the "**Overbid Amount**"); and the highest bid received at the Auction shall be the "winning bid" (the "**Winning Bid**").

5.2 Any incremental amount to the bid by the Purchaser in the context of the Auction may be satisfied by a cash payment or, to the extent that any such incremental amount is an amount to which Luxor (as the term is defined in the Agreement of Purchase and Sale) is entitled (but only to that extent), by the assumption by the Purchaser of that amount of the unsecured debt of the EarthRenew Companies owed to Luxor.

5.3 Upon acceptance of the Winning Bid at the Auction, there shall be a binding agreement of purchase and sale between the successful winning bidder (the "**Winning Bidder**") and the Receiver (the "**Winning Bid Agreement**"). The Winning Bid Agreement shall be constituted by:

(a) the Stalking Horse Bid or one of the Superior Bids, as the case may be, as amended pursuant to the Auction;

(b) the Terms and Conditions of Sale; and

(c) the acceptance of the Winning Bid.

5.4 The Receiver will make a motion to the Court, forthwith, to obtain an order to approve the agreement with the Winning Bidder and to vest the Assets in the Winning Bidder. Thereafter, the Receiver will advise the Purchaser of the outcome of the said motion and proceed with closing the transaction forthwith.

5.5 Title to the Assets shall not pass to the Purchaser nor shall the Purchaser be entitled to possession of same until the purchase price and all other payments to be made by the Purchaser pursuant to the Winning Bid Agreement have been paid in full, and the Purchaser has complied with all of its covenants contained herein and in the Winning Bid Agreement, which shall have been duly executed and delivered to the Vendor.

5.6 The Vendor shall not be required to pay any commission with respect to a sale made pursuant to these Terms and Conditions of Sale.

6. CLOSING DATE

6.1 The closing of the contemplated transaction shall take place at the office of the Vendor's solicitors, Macleod Dixon LLP, 3700 Canterra Tower, 400 Third Avenue SW, Calgary, AB T2P 4H2, at 2:00 p.m. on the Business Day (as the term is defined in the Agreement of Purchase and Sale) following the date on which the Approval and Vesting Order (as the term is defined in the Agreement of Purchase and Sale) is granted or such other date as agreed to in writing by the parties (the "**Closing Date**").

6.2 The Vendor shall not be required to produce any abstract of title, title deed or documents or copies thereof or any evidence as to title pertaining to the Assets, other than those in its possession.

7. EVENT OF FORFEITURE

7.1 If the Purchaser fails to comply with the terms and conditions of the Winning Bid Agreement, or any of them, its deposit shall be forfeited to the Vendor on account of agreed liquidated damages, the Assets being conveyed to the Purchaser may be resold by the Vendor, and the Purchaser shall pay to the Vendor on demand: (i) an amount equal to the amount, if any, by which the purchase price under the Winning Bid Agreement exceeds the net purchase price received by the Vendor pursuant to such resale, and (ii) an amount equal to all costs and expenses incurred by the Vendor in respect of or occasioned by the Purchaser's failure to comply with the Winning Bid Agreement.

8. GENERAL

8.1 RSM Richter Inc. is acting solely in its capacity as court-appointed receiver and manager of the current and future assets, undertakings and properties of the EarthRenew Companies and shall have no personal or corporate liability hereunder or from any agreement contemplated hereby or as a result of any contemplated sale.

8.2 The terms and conditions contained herein shall not merge on the closing of the transaction contemplated herein but shall survive such closing and remain in full force and effect and be binding on the Purchaser thereafter.

8.3 The terms and conditions hereunder shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.

8.4 The terms and conditions contained herein shall enure to the benefit of and be binding upon the parties thereto and their permitted heirs, executors, administrators, successors or assigns, as the case may be.

8.5 Unless otherwise provided herein, any tender of documents or money hereunder may be made upon the Vendor or the Purchaser, or their respective solicitors. Money may be tendered by cheque certified by a Canadian chartered bank, Canadian trust company or by bank draft.

8.6 The obligations of the Vendor to complete any agreement contemplated herein or hereby shall be relieved if, on or before the closing of such sale, the Assets or any part thereof which are the subject of the sale have been removed from the control of the Vendor by any means or process, enjoined, or the Assets, or any part thereof, are redeemed, whereupon the only obligation of the Vendor shall be to return the applicable deposit, without interest, deduction costs or compensation.

8.7 The Purchaser shall not assign the Winning Bid Agreement without the Receiver's prior written approval, which approval may be granted or withheld in the Receiver's sole and unfettered discretion.

8.8 Time is of the essence of any agreement entered into pursuant to these Terms and Conditions of Sale, any rule of law or equity to the contrary notwithstanding.

8.9 The Vendor reserves its rights, subject to Court approval, to withdraw the Assets or any part thereof on or before the Closing Date if there is any actual or threatened litigation with respect to any of the Assets or if any Asset has been redeemed or is subject to any lien or encumbrance which the Vendor cannot remove and the Purchaser will not assume. The Vendor shall be under no obligation to compensate any third party in order to complete any applicable agreement and shall return the deposit to the Purchaser without interest, costs or compensation.

8.10 Unless the context otherwise requires, words importing the singular include the plural and vice versa.

8.11 The submission of a bid by a resident of the Province of Quebec will be deemed to constitute the declaration and acknowledgement by such resident that it has requested these Terms and Conditions of Sale, the form of bid referred to herein and all other documentation relating to its bid and the acceptance thereof to be drawn up in the English language.

8.12 La présentation d'une soumission par une personne résident dans la province de Québec constituera la déclaration et la reconnaissance expresse par la soumissionnaire qu'il a consenti que ces Termes et Conditions de Vente, la formule de soumission mentionnes en ceci et tous autres documents relatifs à la soumission et a son acceptation soient rédiges en langue anglaise.

DATED at Toronto, this ___ day of October, 2010.

RSM RICHTER INC., in its capacity of receiver and manager of the property, assets and undertaking of the EarthRenew Companies, and not in its personal capacity

Per: ______________________________

Name: Robert Taylor

Title:

Exhibit "A" to the Terms and Conditions of Sale
The Assets

The Assets include all of the EarthRenew Companies' assets, undertakings and properties of every nature and kind whatsoever used in connection with the Business, and wherever situate, including, without limitation, the following:

(a) all furniture, fixtures and computer equipment not subject to specific financing agreements or leases;

(b) all goods that are held by any of the EarthRenew Companies for sale (whether such goods are saleable, obsolete or damaged) in relation to Business, including raw materials, work in progress or materials used or consumed in such business;

(c) all Equipment;

(d) all trade accounts receivable and other accounts receivable;

(e) all Real Property;

(f) all customer lists and lists of prospective customers and marketing and sales databases;

(g) the benefit of all unfulfilled orders received by and in favour of any of the EarthRenew Companies;

(h) all Contracts;

(i) all Intellectual Property;

(j) any and all goodwill, in whatever format, and including, without limitation, internet and electronic email addresses, URLs, telephone, telex and facsimile numbers, content of websites and domain names related to or connected with the Business, all related software and electronic code to the extent assignable and other similar intellectual property or intangibles related to the Business;

(k) all Books and Records;

(l) all Warranty Rights;

(m) all Claims;

(n) the full benefit of all leases, etc., to which any of the EarthRenew Companies is a party;

(o) all other tangible and intangible assets and property used in connection with the Business;

(p) Real Property;

(q) all rights and interests under or pursuant to all warranties, representations and guarantees, express, implied or otherwise, of or made by suppliers or others in connection with the Assets otherwise Related to the Business; and

(r) extra-provincial, sales, excise or other licences or registrations issued to or held by the EarthRenew Companies, whether Related to the Business or otherwise.

All capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the Agreement of Purchase and Sale.

EXHIBIT B

Proposed Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	: Chapter 15
EarthRenew IP Holdings LLC, et al.[1]	: Case No. 10-13363 (CSS)
	: Jointly Administered
Debtors in a Foreign Proceeding.	: **Ref. Docket No. _____**

ORDER, PURSUANT TO SECTIONS 105(a), 363, 1501, 1507, 1520 AND 1521 OF THE BANKRUPTCY CODE, AND BANKRUPTCY RULES 2002 AND 6004, (I) RECOGNIZING AND ENFORCING THE ORDER OF THE CANADIAN COURT AUTHORIZING AND APPROVING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS, (II) AUTHORIZING AND APPROVING THE SALE FREE AND CLEAR OF ANY AND ALL LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS, AND (III) GRANTING CERTAIN RELATED RELIEF

Upon consideration of the motion (the "Motion")[2] of RSM Richter Inc. ("RSM" or the "Receiver"), in its capacity as the court-appointed receiver and duly authorized foreign representative for the above-captioned debtors (collectively, the "Debtors") in Canadian receivership proceedings (the "Canadian Receivership Proceeding") commenced under the Bankruptcy and Insolvency Act (Canada), R.S.C. 1985, c. B-3, as amended, pending before the Court of Queen's Bench of Alberta in the Judicial District of Calgary, for the entry of an order, pursuant to sections 105(a), 363, 1501, 1507, 1520 and 1521 of title 11 of the United States

[1] The Debtors in the Chapter 15 Cases, along with the last four digits of their United States Tax Identification Number or Canadian Business Number, as applicable, are: EarthRenew IP Holdings LLC ("EarthRenew IP"); EarthRenew Corporation (0985); EarthRenew, Inc. (1813); EarthRenew Management General Partner Ltd. (2218); EarthRenew Management LP (5417); EarthRenew Operational Employee LP (2155); EarthRenew Solutions LP (6554); EarthRenew Strathmore 1 LP (3013); and EarthRenew Strathmore General Partner Ltd. (7013). The Debtors' corporate headquarters are located at, and the mailing address for the Debtors is, 1925 18th Avenue N.E., Suite 201, Calgary, Alberta, T2E 7T8, Canada. Only EarthRenew, Inc. maintains a United States Tax Identification Number. Canadian Business Numbers have been listed for the other Debtors, with the exception of EarthRenew IP, which is a United States entity disregarded for tax purposes and therefore does not maintain a United States Tax Identification Number.

[2] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

Code, 11 U.S.C. §§ 101 et seq. ("Bankruptcy Code"), Rules 2002 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 6004-1(b) of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), (i) recognizing and enforcing that certain Sale Approval and Vesting Order (the "Canadian Sale Order," a copy of which is attached hereto as Exhibit 1) entered by the Canadian Court on January 26, 2011 in the Canadian Receivership Proceeding, pursuant to which the Canadian Court authorized and approved the sale (the "Sale") of the Debtors' Assets to 089021 B.C. Ltd. (the "Purchaser" or "089") pursuant to the terms and conditions of that certain Agreement of Purchase and Sale (the "Asset Purchase Agreement," a copy of which is attached as Exhibit A to the Motion), dated October 13, 2010, by and between RSM, solely in its capacity as the Receiver, and 089, (ii) authorizing and approving the Sale free and clear of any and all liens, claims, encumbrances and other interests, and (iii) granting certain relief related thereto; and upon the Taylor Declarations; and the Court having previously entered the Recognition Order and the U.S. Sale Procedures Order; and the Court having considered and reviewed the Canadian Sale Order; and the Court finding that (i) it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and (iii) venue is proper in this Court and this District pursuant to 28 U.S.C. § 1410; and due and sufficient notice of the Motion having been given; and it appearing that no other or further notice need be provided; and after due deliberation and sufficient cause appearing therefor, the Court finds and concludes as follows:

(i) The relief granted herein is necessary and appropriate, in the interest of the public and international comity, consistent with the public policy of the United States, warranted pursuant to section 1521 of the Bankruptcy Code, and will not cause any hardship to any parties in interest that is not outweighed by the benefits of the relief granted.

(ii) The Purchaser has acted in good faith, within the meaning of section 363(m) of the Bankruptcy Code, and cause has been shown as to why this Order should not be subject to the stay provided for by Bankruptcy Rule 6004(h).

(iii) Time is of the essence in consummating the Sale. To maximize the value of the Assets, it is essential that the Sale occur within the time constraints set forth in the Asset Purchase Agreement and as otherwise deemed necessary by the Receiver.

(iv) The relief requested in the Motion is in the best interests of the Receiver, the Debtors' estates and creditors, and other parties in interest in the Chapter 15 Cases.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is granted.

2. The Canadian Sale Order is hereby given full force and effect in the United States.

3. The consideration provided by the Purchaser under the Asset Purchase Agreement is fair and reasonable.

4. To the extent not inconsistent with the Canadian Sale Order, the sale of the Assets by the Receiver to the Purchaser shall constitute a legal, valid and effective transfer of the Receiver's and the Debtors' right, title and interest in the Assets notwithstanding any requirement for approval or consent by any person or entity and shall vest the Purchaser with any and all right, title and interest of the Receiver and the Debtors in and to the Assets free and clear of any and all Liens pursuant to section 363(f) of the Bankruptcy Code.

5. The Purchaser is hereby found to be a good faith purchaser under section 363(m) of the Bankruptcy Code.

6. The Canadian Sale Order and this Order shall be binding upon and govern the acts of any and all filing agents, filing officers, administrative agencies and units, governmental departments and units, secretaries of state, federal, state and local officials, and other persons and entities which may be required by operation of law, the duties of their office or contract to accept, file, register or otherwise record or release any documents or instruments or which may be required to report or insure any title or state of title in or to the Assets.

7. Notwithstanding any provision in the Bankruptcy Rules to the contrary, including, without limitation, Bankruptcy Rule 6004(h): (i) this Order shall be effective immediately and enforceable upon its entry; (ii) the Receiver is not subject to any stay in the implementation, enforcement or realization of the relief granted in this Order; and (iii) the Receiver is authorized and empowered, and may in its discretion and without further delay, take any action and perform any act necessary to implement and effectuate the terms of this Order.

8. Notwithstanding Bankruptcy Rules 6004 and 7062, this Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing. In the absence of any person or entity obtaining a stay pending appeal, the Receiver and the Debtors, on the one hand, and the Purchaser, on the other hand, are free to close under the Asset Purchase Agreement at any time, subject to the terms of the Asset Purchase Agreement. In the absence of any person or entity obtaining a stay pending appeal, if the parties close under the Asset Purchase Agreement, the Purchaser shall be deemed to be acting in "good faith" and shall be entitled to all of the protections of section 363(m) of the Bankruptcy Code as to all aspects of

the transactions under and pursuant to the Asset Purchase Agreement if this Order or any authorization contained herein is reversed or modified on appeal.

9. Subject to the terms and conditions of the Asset Purchase Agreement, the Asset Purchase Agreement and any related agreements may be waived, modified, amended or supplemented by agreement of the Receiver and the Purchaser, without further action or order of the Court; provided, however, that any such waiver, modification, amendment or supplement does not have a material adverse effect on the Debtors' estates and substantially conforms to, and effectuates, the Asset Purchase Agreement and any related agreements.

10. The failure specifically to include any particular provisions of the Canadian Sale Order or the Asset Purchase Agreement or any related agreements in this Order shall not diminish or impair the effectiveness of such provisions, it being the intent of the Court, the Receiver and the Purchaser that the Canadian Sale Order and the Asset Purchase Agreement and any related agreements are authorized and approved in their entirety, and in the case of the Asset Purchase Agreement and any related agreements, with such amendments thereto as may be made by the parties in accordance with the terms and conditions of the Canadian Sale Order, the Asset Purchase Agreement and this Order.

11. To the extent any provisions of this Order conflict with the terms and conditions of the Asset Purchase Agreement, this Order shall govern and control.

12. This Court shall retain jurisdiction with respect to any and all matters, claims, rights or disputes arising from or related to the Motion or the implementation or interpretation of this Order.

Dated: Wilmington, Delaware
February ____, 2011

____
Christopher S. Sontchi
United States Bankruptcy Judge

EXHIBIT 1

Canadian Sale Order

I hereby certify this to be a true copy of
the original Order
Dated this 26 day of Jan 2011
for Clerk of the Court

Clerk's stamp:

CLERK OF THE COURT
JAN 26 2011
CALGARY, ALBERTA

Court File Number:	1001-13706
Court:	COURT OF QUEEN'S BENCH OF ALBERTA
Judicial Centre:	CALGARY
Plaintiffs:	NILE CAPITAL I S.À.R.L., NILE CAPITAL II S.À.R.L., LUXOR CAPITAL PARTNERS, LP and LUXOR CAPITAL PARTNERS OFFSHORE MASTER FUND, LP
Defendants:	EARTHRENEW CORPORATION, EARTHRENEW, INC., EARTHRENEW IP HOLDINGS LLC, EARTHRENEW STRATHMORE 1 LP, EARTHRENEW STRATHMORE GENERAL PARTNER LTD., EARTHRENEW SOLUTIONS LP, EARTHRENEW OPERATIONAL EMPLOYEE LP, EARTHRENEW MANAGEMENT LP and EARTHRENEW MANAGEMENT GENERAL PARTNER LTD.
Document:	ORDER (Sale Approval and Vesting Order)
Date on which Order was Pronounced:	TUESDAY, JANUARY 25, 2011
Name of Justice who made this Order	THE HONOURABLE MISTER JUSTICE G. C. HAWCO

Address for Service and Contact Information of Party Filing this Document:	Macleod Dixon LLP 3700 Canterra Tower 400 Third Avenue SW Calgary, Alberta T2P 4H2 Phone: 403-267-8222 Fax: 403-264-5973 howard.gorman@macleoddixon.com Attention: Howard A. Gorman File 268930

UPON THE APPLICATION of counsel for RSM Richter Inc. in its capacity as receiver and manager (the "Receiver") of the assets, undertakings and property of the Defendants, EarthRenew Corporation, EarthRenew, Inc., EarthRenew IP Holdings LLC, EarthRenew

Strathmore 1 LP, EarthRenew Strathmore General Partner Ltd., EarthRenew Solutions LP, EarthRenew Operational Employee LP, Earthrenew Management LP and EarthRenew Management General Partner Ltd. (collectively "EarthRenew") (collectively the "Property"); **AND UPON** having read the Third Report of the Receiver, filed January 6, 2011, **AND UPON** reviewing the Order of Justice J. Strekaf dated October 18, 2010 and filed herein; **AND UPON** hearing counsel for the Plaintiff, and the Purchaser (as that term is defined herein), Counsel for Crop Production Services Inc. ("CPS") and from any other parties who may be present; **AND UPON** it appearing that the sale of the Property is just, fair and appropriate in all the circumstances and in the best interests of the receivership estate;

AND UPON NOTING THAT Notwithstanding any other provision of this Order:

(a) no determination has been made by this Order regarding whether or not any right, obligation, title or interest under an alleged Product Off Take Agreement dated May 20, 2009 (the "Alleged Contract") between EarthRenew, Inc. and CPS is or may be assigned without CPS's consent;

(b) CPS reserves all rights, to the extent they exist, with respect to any assignment of any right, obligation, title or interest in the Alleged Contract; and

(c) the Property to be sold and transferred to 0890241 B.C. Ltd. (the "Purchaser") pursuant to the Stalking Horse Agreement of Purchase and Sale dated October 13, 2010 (referred to below) shall include, subject to election by the Purchaser prior to closing under the Contract otherwise, the cause(s) of action of EarthRenew, Inc. in the Superior Court of the State of California, County of Fresno, case number 09CECG02733DRF, inclusive of all right, title and interest of EarthRenew Inc., in respect of the California Action.

THE COURT IS CONVINCED AND HEREBY ORDERS AND DECLARES THAT:

Service:

1. The time for service of the application materials in support thereof is hereby abridged to the date of actual service and that service is hereby approved, this application is properly returnable today and further service of the application and supporting materials is hereby dispensed with.

Approval of Transaction:

2. The Stalking Horse Agreement of Purchase and Sale dated October 13, 2010 (the "Contract") between the Purchaser and the Receiver, that is described in and attached to the Receiver's First Report, for the sale of the Property, is hereby approved and ratified. The consideration may be paid by way of a reduction in the Plaintiffs' claim as against EarthRenew as this Court has previously determined the Defendants are bound by the Plaintiffs' Secured Debentures.

3. The Receiver is hereby authorized to conclude the transaction contemplated by the Contract (the "Transaction") and to take all such steps and execute all such documents as may reasonably be necessary to complete the Transaction contemplated therein.

Vesting of Property:

4. Upon closing of the Transaction, all of the Defendants' right, title and interest, in and to the Property shall, without further instrument of transfer or assignment, vest in the Purchaser as contemplated by the Contract, absolutely and forever, free and clear of and from any and all claims by, through, or under the Defendants, and any of them, other than claims arising under the September 15, 2010 Receivership Order, as amended, which claims shall continue against the Property and free and clear of and from any and all estate, right, title, interest, and liens, including but not limited to, claims, hypothecs, mortgages, charges, liens (whether contractual, statutory or otherwise), security interests, assignments, actions, levies, taxes, judgments, writs of execution, trusts or deemed trusts (whether contractual, statutory or otherwise), options, agreements, disputes, debts, easements, covenants, caveats, encumbrances or other rights, limitations or restrictions of any nature whatsoever including, without limitation, any rights or interests of any creditors of the Defendants whether or not they have attached or have been perfected, registered or filed, whether secured or unsecured or otherwise,

whether liquidated, unliquidated or contingent (all of the foregoing being collectively referred to hereinafter as the "Claims"), and whether such Claims came into existence prior to, subsequent to, or as a result of any previous order of this Court, by or of all persons or entities of any kind whatsoever, including, without limitation, all individuals, firms, corporations, partnerships, joint ventures, trusts, unincorporated organizations, governmental and administrative bodies, agencies, authorities or tribunals and all other natural persons or corporations, whether acting in their capacity as principals or as agents, trustees, executives, administrators or other legal representatives (collectively, the "Claimants"), including for greater certainty and without limiting the generality of the foregoing: (i) the Claims held by or in favour of the individuals and entities served (either directly or through their solicitors) with this Application; and (ii) the beneficiary of any Claims created or provided for pursuant to any previous Order of this Court in these proceedings.

5. The Purchaser shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever to any Claimants in respect of any Claims any of the Claimants may have against the Defendants, or any of them.

6. The Transaction shall not be void or voidable at the instance of Claimants and shall not constitute nor shall be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, oppressive, or other challengeable or reviewable transaction under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") or any other applicable federal or provincial legislation, and the Transaction, or any actions taken in connection therewith, shall not constitute conduct meriting an oppression remedy.

7. Nothing in this Order shall prejudice any person's *in personam* claim against any of the Defendants.

8. The Receiver is hereby authorized and directed to:

   (a) perform the covenants in the Contract substantially in accordance with its terms, subject to such amendments as the Receiver and the Purchaser may approve which do not materially and adversely alter the Transaction; and

(b) execute all deeds and documents, and to take all such steps as may be necessary or advisable in his sole discretion to consummate the Transaction.

9. The Purchaser shall have possession of the Property immediately upon closing of the Transaction, at which time the Defendants and any other person having possession of the Property shall deliver up possession of same to the Purchaser, and in default of possession being delivered up as aforesaid a Writ of Possession shall issue without further Order.

10. This Order shall be registered by the Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, R.S.A. 2000, c. L-7.

11. The Receiver, the Plaintiff and the Purchaser are at liberty to reapply for further advice, assistance and direction as may be necessary to give full force and effect to the terms of this Order.

12. 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 Receiver and its agents in carrying out the terms of this Order.

13. The Receiver 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.

"Justice Hawko"

Justice of the Court of Queen's Bench of Alberta