

No. S-208894
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

- AND -

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF
URTHECAST CORP., URTHECAST INTERNATIONAL CORP., URTHECAST USA INC., 1185729
B.C. LTD. AND THOSE OTHER PETITIONERS SET OUT ON THE ATTACHED SCHEDULE "A"

ORDER MADE AFTER APPLICATION

(Assignment Order – Geosys Purchase Agreement and Winfield Solutions Licenses)

BEFORE THE HONOURABLE JUSTICE
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JANUARY 7, 2020
~~January 6 and 7, 2021~~

THE APPLICATION of the Petitioners coming on for hearing at 800 Smithe Street, Vancouver, British Columbia, on the 6th and 7th day of January, 2021, by videoconference; AND ON HEARING David E. Gruber, counsel for the Petitioners, those other counsel listed on **Schedule "B"** hereto, and others; AND UPON READING the material filed, including Affidavit #7 of Sai Chu sworn December 29, 2020 (the "Chu Affidavit #7"), Affidavit #1 of Chandra Patel sworn December 29, 2020, the confidential Affidavit of Chandra Patel sworn December 29, 2020, Affidavit number #1 of Anastasia Markaroff sworn October 15, 2020, Affidavit #1 of Benoit Mourot sworn January 4, 2021, Affidavit #1 of Richard Sundal sworn January 4, 2021, Affidavit #1 of Dave Gebhardt sworn January 5, 2021, Affidavit #1 of Benjamin Reedijk sworn January 7, 2021, the Sixth Report of Ernst & Young, Inc., in its capacity as Monitor (the "Monitor"); AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), the *Supreme Court Civil Rules* and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

SERVICE

1. The time for service of the Notice of Application dated December 29, 2020 herein be and is hereby abridged such that the Notice of Application is properly returnable today and service thereof on any interested party is hereby dispensed with.

DEFINED TERMS

2. Capitalized terms used but not otherwise defined in this Order shall have the meaning given to such terms in the Asset Purchase Agreement dated December 10, 2020 (as amended, the "**Sale Agreement**") between the Petitioners UrtheCast Corp., 1185729 B.C. Ltd., 1185781 B.C. Ltd., and UrtheCast USA Inc., (collectively, the "**Vendor**"), as vendor, and Earth Daily Holdings, LP, EarthDaily Canada Holdings Corp., and EarthDaily Canada Limited Partnership (collectively, the "**Purchasers**"), as purchasers, a copy of which is attached to Chu Affidavit #7 as Exhibit A.

ASSIGNMENT OF GEOSYS PURCHASE AGREEMENT / WINFIELD SOLUTIONS LICENSES

3. Upon the delivery by the Monitor to the Petitioners and the Purchasers of the Monitor's Certificate (as defined in the Sale Agreement), all of the rights and obligations of the Petitioners under and to the Geosys Purchase Agreement and the Winfield Solutions Licenses (as defined in the Sale Agreement and as set out in **Schedule "C"** hereto, collectively, the "**Land O'Lakes Agreements**"), shall be assigned, conveyed, and transferred to, and assumed by, the Purchasers pursuant to section 11.3 of the CCAA.

4. The assignment of the Land O'Lakes Agreements is hereby declared valid and binding upon all of the counterparties to the Land O'Lakes Agreements notwithstanding any restriction, condition or prohibition contained in any of the Land O'Lakes Agreements relating to the assignment thereof, including any provision requiring the consent of any party to the assignment.

5. The assignment and transfer of the Land O'Lakes Agreements shall be subject to the provisions in the Sale Agreement that the Petitioners' rights, title and interests in the Acquired Assets shall vest absolutely in the Purchasers free and clear of all Encumbrances other than the Permitted Encumbrances.

6. Neither Land O'Lakes, Inc. nor Winfield Solutions, LLC, nor any affiliates or subsidiaries thereof (whether direct or indirect) will make or pursue any demand, claim, action or suit or exercise any right or remedy under the Land O'Lakes Agreements against the Purchasers relating to:

- (a) the Petitioners having sought or obtained relief under the CCAA;
- (b) the Petitioners having obtained the US Recognition Order or the France Order; or
- (c) the insolvency of the Petitioners; or
- (d) any failure by the Petitioners to perform a non-monetary obligation under any of the Land O'Lakes Agreements.

and Land O'Lakes, Inc. and Winfield Solutions, LLC and their respective affiliated or subsidiary entities be forever barred and estopped from taking such action. For greater certainty:

- (i) nothing herein shall limit or exempt the Purchasers in respect of obligations accruing, arising or continuing after the closing under the Land O'Lakes Agreements other than in respect of items (a) to (b), above; and
- (ii) any Permitted Encumbrances shall continue to have the priority and entitlement attaching thereto notwithstanding this Order.

7. The monetary defaults in relation to the Land O'Lakes Agreements existing prior to the closing, if any, other than those arising by reason only of the insolvency of the Petitioners, the commencement of these CCAA proceedings or the failure to perform a non-monetary obligation under any of the Land O'Lakes Agreements are declared to be US\$3,976,301 as at January 6, 2021 and accruing interest at a rate of US\$959 per day (the "Second Installment Amount").

8. The Purchasers are entitled but not obligated to set-off the invoiced amount of US\$2,522,000 for services to be provided under the Land O'Lakes Agreements against the Second Installment Amount, and pay any amounts remaining (such remaining amounts the "Net Land O'Lakes Cure Cost"). The Net Land O'Lakes Cure Cost shall be paid by the Purchasers in accordance with the Land O'Lakes Agreements no later than the date that is thirty (30) days from the closing of the Sale Agreement.

9. Immediately following the assignment and transfer of the Land O'Lakes Agreements neither Land O'Lakes, Inc. nor Winfield Solutions, LLC will have any claim whatsoever against the Petitioners.

PENDENCY OF BANKRUPTCY PROCEEDINGS

10. For greater certainty, notwithstanding:

- (a) the pendency of these proceedings and any declaration of insolvency made herein;
- (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "BIA"), in respect of the Petitioners, and any bankruptcy order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of the Petitioners; and
- (d) the provisions of any federal or provincial statute;

the assignment of the Land O'Lakes Agreements to the Purchasers in accordance with this Order and the Sale Agreement shall be binding on any trustee in bankruptcy that may be appointed in respect of the Petitioners and shall not be void or voidable by creditors of the Petitioners, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

ADVICE AND DIRECTIONS

11. The Purchasers, the Petitioners, the Monitor, Land O'Lakes, Inc., and Winfield Solutions, LLC shall be at liberty to apply for further advice, assistance and direction as may be necessary or desirable in order to give full force and effect to the terms of this Order, including without limitation, as necessary, to effect the transfer of the Land O'Lakes Agreements (including any transfer of title registrations in respect of the Land O'Lakes Agreements), the interpretation of this Order or the implementation thereof, and for any further order that may be required, on notice to any party likely to be affected by the order sought or on such notice as this Court requires.

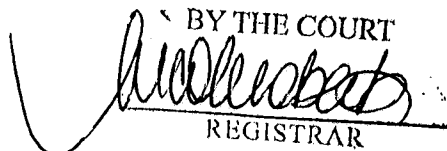
AID AND RECOGNITION

12. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the Purchasers, the Petitioners, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioners and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Purchasers, the Petitioners and the Monitor and their respective agents in carrying out the terms of this Order.

GENERAL

13. Endorsement of this Order by counsel appearing on this application other than the counsel for the Petitioners is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

BY THE COURT

 REGISTRAR

endorsement attached

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DHPR

for Signature of David E. Gruber
Lawyer for the Petitioners

BY THE COURT

REGISTRAR