

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **William E. Kovacic, Chairman**
 Pamela Jones Harbour
 Jon Leibowitz
 J. Thomas Rosch

)	
In the Matter of)	
)	
Agrium Inc.,)	Docket No. C-4219
a corporation, and)	
)	
UAP Holding Corporation,)	
a corporation.)	
)	

**ORDER TO HOLD SEPARATE AND MAINTAIN ASSETS
(Public Record Version)**

The Federal Trade Commission (“Commission”) having initiated an investigation of the proposed acquisition by Respondent Agrium Inc. (“Agrium”) of the outstanding voting securities of Respondent UAP Holding Corporation (“UAP”), hereinafter referred to collectively as “Respondents,” and Respondents having been furnished thereafter with a copy of the draft of Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondents, their attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Orders (“Consent Agreement”), containing an admission by Respondents of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondents have violated the said Acts, and that a Complaint should issue stating its charges in that respect, and having determined to accept the executed Consent Agreement and to place such Consent Agreement containing the Decision and Order on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its Complaint, makes the following jurisdictional findings and issues this Order to Hold Separate and Maintain Assets (“Hold Separate”):

1. Respondent Agrium is a corporation organized, existing, and doing business under, and by virtue of, the laws of Canada, with its office and principal place of business located at 13131 Lake Fraser Drive S.E., Calgary, Alberta, Canada T2J 7E8. Agrium’s principal subsidiary in the United States is located at 4582 South Ulster Street, Suite 1700, Denver, Colorado 80237.
2. Respondent UAP is a corporation organized, existing, and doing business under, and by virtue of, the laws of the State of Delaware, with its office and principal place of business located at 7251 W. 4th Street, Greeley, Colorado 80634.
3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that, as used in this Hold Separate, the following definitions, and all other definitions used in the Consent Agreement and the proposed Decision and Order (and when made final, the Decision and Order), shall apply:

- A. “Additional Hold Separate Business” means all business activities and related assets conducted by UAP, prior to the Acquisition, at the locations identified in Appendix C of this Hold Separate.
- B. “Agrium Assets & Business” means all business activities and related assets conducted by Agrium at or based out of (i) 308 Timmons St., Snow Hill, Maryland, and (ii) 18432 Wachapreague Road, Melfa, Virginia, prior to the Acquisition.
- C. “Decision and Order” means (i) the Proposed Decision and Order contained in the Consent Agreement in this matter until the issuance and service of a final Decision and Order by the Commission; and (ii) the Final Decision and Order issued by the Commission following the issuance and service of a final Decision and Order by the Commission.

- D. “Divestiture Date” means, with regard to any of the Farm Supply Assets, the date on which Respondents (or a Divestiture Trustee) close on the divestiture of those assets completely and as required by Paragraph II (or Paragraph V) of the Decision and Order to an Acquirer approved by the Commission.
- E. “Hold Separate Business” means the Farm Supply Assets, Farm Supply Business, each Farm Supply Employee, and the Additional Hold Separate Business, but shall not include the Agrium Assets & Business.
- F. “Hold Separate” means this Order to Hold Separate and Maintain Assets.
- G. “Hold Separate Period” means the time period during which the Hold Separate is in effect, which shall begin on the Acquisition Date and terminate pursuant to Paragraph V hereof.
- H. “Interim Monitor” means the Person appointed pursuant to Paragraph II.C. of this Hold Separate.
- I. “Orders” means the Decision and Order and this Hold Separate.

II.

IT IS FURTHER ORDERED that:

- A. During the Hold Separate Period, Respondents shall hold the Hold Separate Business separate, apart, and independent as required by this Hold Separate and shall vest the Hold Separate Business with all rights, powers, and authority necessary to conduct its business. Respondents shall not exercise direction or control over, or influence directly or indirectly, the Hold Separate Business or any of its operations, or the Interim Monitor, except to the extent that Respondents must exercise direction and control over the Hold Separate Business as is necessary to assure compliance with this Hold Separate, the Consent Agreement, the Decision and Order, and all applicable laws.
- B. From the date Respondents execute the Consent Agreement and during the Hold Separate Period, Respondents shall take such actions as are necessary to maintain and assure the continued maintenance of the viability, marketability and competitiveness of the Hold Separate Business, and to prevent the destruction, removal, wasting, deterioration, or impairment of any of the assets, except for ordinary wear and tear, and shall not sell, transfer, encumber or otherwise impair the Hold Separate Business.
- C. Respondents shall hold the Hold Separate Business separate, apart, and independent of Agrium and UAP on the following terms and conditions:

1. Richard Gilmore shall serve as Interim Monitor, pursuant to the agreement executed by the Interim Monitor and Respondents and attached as Confidential Appendix A (“Monitor Agreement”).
 - (a) Respondents shall, no later than one (1) day after the Acquisition Date, pursuant to the Monitor Agreement, transfer to and confer upon the Interim Monitor all rights, powers, and authority necessary to permit the Interim Monitor to perform his duties and responsibilities pursuant to this Hold Separate, in a manner consistent with the purposes of the Decision and Order and in consultation with Commission staff, and shall include in the Monitor Agreement all provisions necessary to effectuate this requirement.
 - (b) The Monitor Agreement shall require that the Interim Monitor shall act in a fiduciary capacity for the benefit of the Commission.
 - (c) The Interim Monitor shall have the responsibility for monitoring the organization of the Hold Separate Business; supervising the management of the Hold Separate Business by the Manager; maintaining the independence of the Hold Separate Business; and monitoring Respondents’ compliance with their obligations pursuant to the Orders, including maintaining the viability, marketability and competitiveness of the Hold Separate Business pending divestiture.
 - (d) Subject to all applicable laws and regulations, the Interim Monitor shall have full and complete access to all personnel, books, records, documents and facilities of the Hold Separate Business, and to any other relevant information as the Interim Monitor may reasonably request including, but not limited to, all documents and records kept by Respondents in the ordinary course of business that relate to the Hold Separate Business. Respondents shall develop such financial or other information as the Interim Monitor may reasonably request and shall cooperate with the Interim Monitor. Respondents shall take no action to interfere with or impede the Interim Monitor’s ability to monitor Respondents’ compliance with this Hold Separate, the Consent Agreement or the Decision and Order or otherwise to perform his duties and responsibilities consistent with the terms of this Hold Separate.
 - (e) The Interim Monitor shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Interim Monitor’s duties and responsibilities.

- (f) The Commission may require the Interim Monitor and each of the Interim Monitor's consultants, accountants, attorneys, and other representatives and assistants to sign an appropriate confidentiality agreement relating to materials and information received from the Commission in connection with performance of the Interim Monitor's duties.
- (g) Respondents may require the Interim Monitor and each of the Interim Monitor's consultants, accountants, attorneys, and other representatives and assistants to sign an appropriate confidentiality agreement; *provided, however*, such agreement shall not restrict the Interim Monitor from providing any information to the Commission.
- (h) Thirty (30) days after the Acquisition Date, and every thirty (30) days thereafter until the Hold Separate terminates, the Interim Monitor shall report in writing to the Commission concerning the efforts to accomplish the purposes of this Hold Separate and Respondents' compliance with their obligations under the Hold Separate and the Decision and Order. Included within that report shall be the Interim Monitor's assessment of the extent to which the businesses comprising the Hold Separate Business are meeting (or exceeding) their projected goals as are reflected in operating plans, budgets, projections or any other regularly prepared financial statements.
- (i) If the Interim Monitor ceases to act or fails to act diligently and consistent with the purposes of this Hold Separate, the Commission may appoint a substitute Interim Monitor consistent with the terms of this Hold Separate, subject to the consent of Respondents, which consent shall not be unreasonably withheld. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of the substitute Interim Monitor within ten (10) days after notice by the staff of the Commission to Respondents of the identity of any substitute Interim Monitor, Respondents shall be deemed to have consented to the selection of the proposed substitute Interim Monitor. Respondents and the substitute Interim Monitor shall execute a Monitor Agreement, subject to the approval of the Commission, consistent with this paragraph.
- (j) The Interim Monitor shall serve until the day after the Divestiture Date pertaining to the last divestiture of the Farm Supply Assets and Farm Supply Business in the Hold Separate Business; *provided, however*, that the Commission may extend or modify this period as may be necessary or appropriate to accomplish the purposes of the Orders.

2. No later than one (1) day after the Acquisition Date, Respondents shall enter into a management agreement with, and shall transfer all rights, powers, and authority necessary to manage and maintain the Hold Separate Business, to David McClain (“Manager”).
 - (a) In the event that the aforementioned individual declines an offer to act as a Manager, or accepts the position of Manager and subsequently ceases to act as a Manager, then Respondents shall select a substitute Manager, subject to the approval of the Commission, and transfer to the substitute Manager all rights, powers and authorities necessary to permit the substitute Manager to perform his/her duties and responsibilities, pursuant to this Hold Separate.
 - (b) The Manager shall report directly and exclusively to the Interim Monitor and shall manage the Hold Separate Business independently of the management of Respondents. The Manager shall not be involved, in any way, in the operations of the other businesses of Respondents during the term of this Hold Separate.
 - (c) The management agreement between Respondents and the Manager shall provide that:
 - (1) Respondents shall provide the individual who agrees to serve as Manager with reasonable financial incentives to undertake this position. Such incentives shall include a continuation of all employee benefits, including regularly scheduled raises, bonuses, vesting of pension benefits (as permitted by law), and additional incentives as may be necessary to assure the continuation and prevent any diminution of the Hold Separate Business’s viability, marketability and competitiveness until the applicable Divestiture Date(s) have occurred, and as may otherwise be necessary to achieve the purposes of this Hold Separate; and
 - (2) Respondents shall, at the option of the Manager, offer to continue the Manager’s employment for a period of no less than one (1) year following the Manager’s acceptable completion of service as a Manager at terms no less favorable than those pursuant to which the Manager was employed prior to the Acquisition; *provided, however,* this requirement shall not apply if the Manager was removed from service for cause.

- (d) The Manager shall make no material changes in the ongoing operations of the Hold Separate Business except with the approval of the Interim Monitor, in consultation with the Commission staff.
 - (e) The Manager shall have the authority, with the approval of the Interim Monitor, to remove Hold Separate Business employees and replace them with others of similar experience or skills. If any Person ceases to act or fails to act diligently and consistent with the purposes of this Hold Separate, the Manager, in consultation with the Interim Monitor, may request Respondents to, and Respondents shall, appoint a substitute Person, which Person the Manager shall have the right to approve.
 - (f) In addition to Hold Separate Business employees, the Manager may, with the approval of the Interim Monitor, employ such Persons as are reasonably necessary to assist the Manager in managing the Hold Separate Business.
 - (g) The Interim Monitor shall be permitted, in consultation with the Commission staff, to remove the Manager for cause. Within fifteen (15) days after such removal of the Manager, Respondents shall appoint a replacement Manager, subject to the approval of the Commission, on the same terms and conditions as provided in this paragraph.
3. The Interim Monitor and the Manager shall serve, without bond or other security, at the cost and expense of Respondents, on reasonable and customary terms commensurate with the person's experience and responsibilities.
 4. Respondents shall indemnify the Interim Monitor and Manager and hold each harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Interim Monitor's or the Manager's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from gross negligence or willful misconduct by the Interim Monitor or the Manager.
 5. The Hold Separate Business shall be staffed with sufficient employees (including any full-time, part-time, or contract employee of the Farm Supply Business) to maintain the viability and competitiveness of the Hold Separate Business. To the extent that such employees leave or have left the Hold Separate Business prior to the Divestiture Date, the Manager, with the approval of the Interim Monitor, may

replace departing or departed employees with persons who have similar experience and expertise or determine not to replace such departing or departed employees.

6. In connection with support services or products not included within the Hold Separate Business, Respondents shall continue to provide, or offer to provide, the same support services to the Hold Separate Business as customarily have been or were being provided to such businesses by Respondent UAP prior to the date the Consent Agreement is signed by Respondent UAP. For any services or products that Respondents may provide to the Hold Separate Business, Respondents may charge no more than the same price they charge others for the same services or products. Respondents' personnel providing such services or products must retain and maintain all Confidential Business Information of or pertaining to the Hold Separate Business on a confidential basis, and, except as is permitted by this Hold Separate, such persons shall be prohibited from disclosing, providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any person whose employment involves any of Respondents' businesses, other than the Hold Separate Business. Such personnel shall also execute confidentiality agreements prohibiting the disclosure of any Confidential Business Information of the Hold Separate Business.
 - (a) Respondents shall offer to the Hold Separate Business any services and products that Respondents provide, in the ordinary course of their businesses, to their other businesses directly or through third party contracts, or that they have provided in the ordinary course of their businesses directly or through third party contracts to the businesses constituting the Hold Separate Business at any time since September 1, 2007. The Hold Separate Business may, at the option of the Manager with the approval of the Interim Monitor, obtain such services and products from Respondents. Subject to the foregoing, the services and products that Respondents shall offer the Hold Separate Business shall include, but shall not be limited to, the following:
 - (1) human resources and administrative services, including but not limited to payroll processing, labor relations support, pension administration, and procurement and administration of employee benefits, including health benefits;
 - (2) federal and state regulatory compliance and policy development services;

- (3) environmental health and safety services, which are used to develop corporate policies and insure compliance with federal and state regulations and corporate policies;
- (4) financial accounting services;
- (5) preparation of tax returns;
- (6) audit services;
- (7) information technology support services;
- (8) processing of accounts payable and accounts receivable;
- (9) technical support;
- (10) procurement of supplies;
- (11) maintenance and repair of facilities;
- (12) procurement of goods and services utilized in the ordinary course of business by the Hold Separate Business; and
- (13) legal services.

(b) The Hold Separate Business shall have, at the option of the Manager with the approval of the Interim Monitor, the ability to acquire services and products from third parties unaffiliated with Respondents.

7. Respondents shall provide the Hold Separate Business with sufficient financial and other resources:

- (a) as are appropriate in the judgment of the Interim Monitor to operate the Hold Separate Business as it is currently operated;
- (b) to perform all maintenance to, and replacements of, the assets of the Hold Separate Business;
- (c) to carry on existing and planned capital projects and business plans; and
- (d) to maintain the viability, competitiveness, and marketability of the Hold Separate Business.

Such financial resources to be provided to the Hold Separate Business shall include, but shall not be limited to, (i) general funds, (ii) capital, (iii) working capital, and (iv) reimbursement for any operating losses, capital losses, or other losses; *provided, however*, that, consistent with the purposes of the Decision and Order and in consultation with the Interim Monitor, the Manager may reduce in scale or pace any capital or research and development project, or substitute any capital or research and development project for another of the same cost.

8. Respondents shall cause the Interim Monitor, the Manager, and each of Respondents' employees having access to Confidential Business Information of or pertaining to the Hold Separate Business to submit to the Commission a signed statement that the individual will maintain the confidentiality required by the terms and conditions of this Hold Separate. These individuals must retain and maintain all Confidential Business Information of or pertaining to the Hold Separate Business on a confidential basis and, except as is permitted by this Hold Separate, such Persons shall be prohibited from disclosing, providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other Person whose employment involves any of Respondents' businesses or activities other than the Hold Separate Business.
9. Except for the Manager, Hold Separate Business employees, and support services employees involved in providing services to the Hold Separate Business pursuant to this Hold Separate, and except to the extent provided in this Hold Separate, Respondents shall not permit any other of its employees, officers, or directors to be involved in the operations of the Hold Separate Business.
10. Respondents' employees (excluding the Hold Separate Business employees and employees involved in providing support services to the Hold Separate Business pursuant to Paragraph II.C.6.) shall not receive, or have access to, or use or continue to use any Confidential Business Information of the Hold Separate Business except:
 - (a) as required by law; and
 - (b) to the extent that necessary information is exchanged:
 - (1) in the course of consummating the Acquisition;
 - (2) in negotiating agreements to divest assets pursuant to the Consent Agreement and engaging in related due diligence;
 - (3) in complying with this Hold Separate or the Consent Agreement;

- (4) in overseeing compliance with policies and standards concerning the safety, health and environmental aspects of the operations of the Hold Separate Business and the integrity of the financial controls of the Hold Separate Business;
- (5) in defending legal claims, investigations or enforcement actions threatened or brought against or related to the Hold Separate Business; or
- (6) in obtaining legal advice.

Nor shall the Manager or any Hold Separate Business employees receive or have access to, or use or continue to use, any Confidential Business Information about Respondents and relating to Respondents' businesses, except such information as is necessary to maintain and operate the Hold Separate Business. Respondents may receive aggregate financial and operational information relating to the Hold Separate Business only to the extent necessary to allow Respondents to comply with the requirements and obligations of the laws of the United States and other countries, to prepare consolidated financial reports, tax returns, reports required by securities laws, and personnel reports, and to comply with this Hold Separate. Any such information that is obtained pursuant to this subparagraph shall be used only for the purposes set forth in this subparagraph.

- 11. Respondents and the Hold Separate Business shall jointly implement, and at all times during the Hold Separate Period maintain in operation, a system, as approved by the Interim Monitor, of access and data controls to prevent unauthorized access to or dissemination of Confidential Business Information of the Hold Separate Business, including, but not limited to, the opportunity by the Interim Monitor, on terms and conditions agreed to with Respondents, to audit Respondents' networks and systems to verify compliance with this Hold Separate.
 - 12. No later than five (5) days after the Acquisition Date, Respondents shall establish written procedures, subject to the approval of the Interim Monitor, covering the management, maintenance, and independence of the Hold Separate Business consistent with the provisions of this Hold Separate.
 - 13. No later than five (5) days after the date this Hold Separate becomes final, Respondents shall circulate to employees of the Hold Separate Business, and to persons who are employed in Respondents' businesses that compete with the Hold Separate Business, a notice of this Hold Separate and the Consent Agreement, in the form attached hereto as Appendix B.
- D. From the date Respondents execute the Consent Agreement and during the Hold Separate Period, Respondent shall take such actions as are necessary to maintain the viability,

marketability, and competitiveness of the Agrium Assets & Business. Among other things that may be necessary, Respondent shall:

1. Maintain the operations of the Agrium Assets & Business in the regular and ordinary course of business and in accordance with past practice (including regular repair and maintenance);
 2. Provide sufficient working capital to operate the Agrium Assets & Business at least at current rates of operation, to meet all capital calls with respect to the Agrium Assets & Business and to carry on, at least at their scheduled pace, all capital projects, business plans and promotional activities;
 3. Make available for use by the Agrium Assets & Business funds sufficient to perform all routine maintenance and all other maintenance as may be necessary to, and all replacements of, the Agrium Assets & Business;
 4. Continue, at least at their scheduled pace, any additional expenditures relating to the Agrium Assets & Business authorized prior to the date the Consent Agreement was signed by Respondents including, but not limited to, all marketing expenditures;
 5. Use best efforts to maintain and increase sales of the Agrium Assets & Business, and to maintain at budgeted levels for the year 2007 or the current year, whichever are higher, all administrative, technical, and marketing support for the Agrium Assets & Business;
 6. Provide such support services to the Agrium Assets & Business as were being provided to these businesses as of the date the Consent Agreement was signed by Respondents;
 7. Maintain a work force at least as equivalent in size, training, and expertise to what has been associated with the Agrium Assets & Business prior to the Acquisition;
 8. Assure that Respondents' employees with primary responsibility for managing and operating the Agrium Assets & Business are not transferred or reassigned to other areas within Respondents' organizations except for transfer bids initiated by employees pursuant to Respondents' regular, established job posting policy; and
 9. Use best efforts to preserve and maintain the existing relationships with customers, suppliers, vendors, private and governmental entities, and others having business relations with the Agrium Assets & Business.
- E. Until the respective Divestiture Date for each of the Farm Supply Assets and Farm Supply Business in the Hold Separate Business has occurred, Respondents shall provide

each Farm Supply Employee with reasonable financial incentives to continue in his or her position consistent with past practices and/or as may be necessary to preserve the marketability, viability and competitiveness of the relevant Farm Supply Assets and Farm Supply Business pending divestiture. Such incentives shall include a continuation of all employee benefits, including regularly scheduled raises, bonuses, vesting of pension benefits (as permitted by law), and additional incentives as may be necessary to assure the continuation and prevent any diminution of the viability, marketability and competitiveness of the Farm Supply Assets and Farm Supply Business until the applicable Divestiture Date(s) occur(s), and as may otherwise be necessary to achieve the purposes of this Hold Separate.

- F. From the date Respondents execute the Consent Agreement until this Hold Separate terminates, Respondents shall not, directly or indirectly, solicit, induce, or attempt to solicit or induce any Farm Supply Employee for a position of employment with Respondents. The Acquirer shall have the option of offering employment to any Farm Supply Employee. Respondents shall not interfere with the employment by the Acquirer of such employee; shall not offer any incentive to such employee to decline employment with the Acquirer or to accept other employment with the Respondents; and shall remove any impediments that may deter such employee from accepting employment with the Acquirer including, but not limited to, any non-compete or confidentiality provisions of employment or other contracts that would affect the ability of such employee to be employed by the Acquirer, and the payment, or the transfer for the account of the employee, of all current and accrued bonuses, pensions and other current and accrued benefits to which such employee would otherwise have been entitled had he or she remained in the employment of the Respondents.
- G. Respondents shall not, directly or indirectly, solicit, induce or attempt to solicit or induce any Farm Supply Employee who has accepted an offer of employment with the Acquirer, or who is employed by the Acquirer, to terminate his or her employment relationship with the Acquirer; *provided, however*, a violation of this provision will not occur if: (1) the person's employment has been terminated by the Acquirer, (2) Respondents advertise for employees in newspapers, trade publications, or other media not targeted specifically at the employees, or (3) Respondents hire an employee who applies for employment with Respondents, so long as such employee was not solicited by Respondents in violation of this paragraph.
- H. The purpose of this Hold Separate is to: (1) preserve the assets and businesses within the Hold Separate Business as viable, competitive, and ongoing businesses independent of Respondents until the divestitures required by the Decision and Order are achieved; (2) assure that no Confidential Business Information is exchanged between Respondents and the Hold Separate Business, except in accordance with the provisions of this Hold Separate; (3) prevent interim harm to competition pending the relevant divestitures and other relief; and (4) maintain the full economic viability, marketability and competitiveness of the relevant Farm Supply Assets and Farm Supply Business, and

prevent the destruction, removal, wasting, deterioration, or impairment of any of the relevant Farm Supply Assets and Farm Supply Business except for ordinary wear and tear.

III.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to any proposed (1) dissolution of Respondents, (2) acquisition, merger or consolidation of Respondents, or (3) any other change in Respondents that may affect compliance obligations arising out of this Hold Separate, including but not limited to assignment, the creation or dissolution of subsidiaries, or any other change in Respondents.

IV.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Hold Separate, and subject to any legally recognized privilege, and upon written request with reasonable notice to Respondents, relating to compliance with this Hold Separate, Respondents shall permit any duly authorized representative of the Commission:

- A. Access, during office hours of Respondents and in the presence of counsel, to all facilities, and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession or under the control of Respondents; and
- B. Upon five (5) days' notice to Respondents and without restraint or interference from Respondents, to interview officers, directors, or employees of Respondents, who may have counsel present.

V.

IT IS FURTHER ORDERED that this Hold Separate shall terminate at the earlier of:

- A. Three (3) business days after the Commission withdraws its acceptance of the Consent Agreement pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. § 2.34; or

- B. The day after the Divestiture Date of the last of the Farm Supply Assets required to be divested pursuant to the Decision and Order; *provided, however*, that (1) the Farm Supply Assets relating to each Farm Supply Business identified in Appendix A of the Decision and Order shall be included in the Hold Separate Business only until such assets are divested pursuant to Paragraph II.A. of the Decision and Order and (2) each business identified in Appendix C of this Hold Separate shall be included in the Hold Separate Business only until Respondents have divested the corresponding Agrium Assets & Business in the relevant market pursuant to Paragraph II.A. of the Decision and Order.

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED: May 1, 2009

Appendix A

[Redacted From The Public Record Version But Incorporated By Reference]

Appendix B

NOTICE OF DIVESTITURE AND REQUIREMENT FOR CONFIDENTIALITY

Agrium Inc. (“Agrium”) and UAP Holding Corporation (“UAP”), referred to as “Respondents,” have entered into an Agreement Containing Consent Orders (“Consent Agreement”) with the Federal Trade Commission (“Commission”) providing for divestiture of certain businesses and assets and other relief, in connection with the acquisition of UAP by Agrium. Under the terms of the Consent Agreement, Agrium must divest the businesses and assets, at the locations identified in Attachment A, to persons approved by the Commission and in a manner acceptable to the Commission, within 180 days of the consummation of Agrium’s acquisition of UAP.

As used in the Consent Agreement, the term “Hold Separate Business” means the businesses and assets identified in Attachment A, and all full-time, part-time or contract employees of those businesses. During the Hold Separate Period, which begins on the date Agrium acquires UAP and ends after Agrium has completed the required divestitures, Agrium must hold the Hold Separate Business separate, apart, and independent from Agrium’s other businesses. The businesses within the Hold Separate Business must be maintained as ongoing, competitive businesses until Agrium has completed the required divestitures.

All competitive information relating to the businesses within the Hold Separate Business must be retained and maintained on a confidential basis by the persons who have been and continue to be involved in the operations or sale of any of the businesses within the Hold Separate Business. Except as provided in the Decision and Order or the Order to Hold Separate and Maintain Assets, all such persons are prohibited from disclosing, providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person employed by Agrium or whose employment relates to any of Agrium’s businesses other than the Hold Separate Business, and may be required to sign a statement agreeing to keep such information confidential. Similarly, persons involved in similar activities with respect to Agrium’s businesses are prohibited from disclosing, providing, discussing, exchanging, circulating, or otherwise furnishing any similar Agrium information to or with any other person whose employment involves the Hold Separate Business, except as otherwise provided in the Consent Agreement.

In addition, until divestiture occurs, Respondents must take such actions as are necessary to maintain the economic viability, marketability, and competitiveness of each of the businesses and assets identified in Attachment A, and must prevent the destruction, removal, wasting, deterioration, sale, disposition, transfer, or impairment of these businesses and assets except for ordinary wear and tear.

The Commission has appointed [Name] to serve as Interim Monitor until the divestitures are completed to oversee compliance with the hold separate and asset maintenance requirements of the Consent Agreement. [Name] can be contacted at: [toll free number; e-mail address]. Because any violation of the Consent Agreement may subject Respondents to civil penalties and other relief as provided by law, it is important that the letter and spirit of the Consent Agreement be honored.

Appendix C

Additional Hold Separate Business

Relevant Area	Business Name & Address
Pocomoke City, MD	UAP 7311 Ocean Hwy. Pocomoke City, MD 21851
Pocomoke City, MD	UAP 5708 Onley Rd. Girdletree, MD 21829