

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

COMMISSIONERS: **Deborah Platt Majoras, Chairman**
 Orson Swindle
 Thomas B. Leary
 Pamela Jones Harbour
 Jon Leibowitz

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GENERAL ELECTRIC COMPANY,)
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) **Docket No. C-4119**
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ORDER TO HOLD SEPARATE AND MAINTAIN ASSETS

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed acquisition by Respondent General Electric Company hereinafter referred to as “Respondent,” of InVision Technologies, Inc. (“InVision”), and Respondent having been furnished thereafter with a draft Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and that, if issued by the Commission, would charge Respondent 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

Respondent, its attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Orders (“Consent Agreement”), containing an admission by Respondent 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 Respondent 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 Respondent has violated the said Acts, and that a Complaint should issue stating its charges in that respect, and having such Consent Agreement 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 makes the following jurisdictional findings and issues this Order to Hold

Separate and Maintain Assets (“Hold Separate Order”).

1. Respondent General Electric Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 3135 Easton Turnpike, Fairfield, Connecticut 06431.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of Respondent, and the proceeding is in the public interest.

I.

IT IS ORDERED that, as used in this Hold Separate Order, the following definitions shall apply:

- A. “GE” means General Electric Company, its directors, officers, employees, agents, attorneys, representatives, predecessors, successors, and assigns; its joint ventures, subsidiaries, divisions, groups and affiliates controlled by General Electric Company (including, but not limited to, the GE Inspection Technologies business of General Electric Company), and the respective directors, officers, employees, agents, attorneys, representatives, predecessors, successors, and assigns of each.
- B. “InVision” means InVision Technologies, Inc., a corporation organized, existing, and doing business under and by virtue of the laws of Delaware, with its offices and principal place of business located at 7151 Gateway Boulevard, Newark, California 94560; and joint ventures, subsidiaries, divisions, groups, and affiliates controlled by InVision.
- C. “YXLON” means YXLON International X-ray GmbH (Germany), YXLON International Inc. (Akron, Ohio); YXLON International Holding GmbH (Germany); YXLON International A/S (Copenhagen); YXLON International KK (Tokyo); and YXLON International CT GmbH (Hattingen), wholly-owned subsidiaries of InVision; and joint ventures, subsidiaries, divisions, groups, and affiliates controlled by such subsidiaries.
- D. “Respondent” means GE, individually, and the Person resulting from the Acquisition.
- E. “Commission” means the Federal Trade Commission.

- F. “Acquirer” means any entity that receives the prior approval of the Commission to acquire the X-Ray NDT Business pursuant to Paragraph II or III of this Order.
- G. “Acquisition” means the proposed acquisition of all of the outstanding stock of InVision by Respondent pursuant to the Agreement and Plan of Merger dated March 15, 2004, by and among InVision, Respondent and Jet Acquisition Sub, Inc.
- H. “Acquisition Date” means the date the Acquisition is consummated.
- I. “Effective Date of Divestiture” means the date on which Respondent (or a Divestiture Trustee) divests to the Acquirer the X-Ray NDT Business completely and as required by Paragraph II or III of the Decision and Order in this matter.
- J. “Held Separate Business” means the X-Ray NDT Business and X-Ray NDT Employees.
- K. “Hold Separate Period” means the time period during which the Hold Separate Order is in effect, which shall begin no later than ten (10) days after the date the Hold Separate Order becomes final and terminate pursuant to Paragraph V. hereof.
- L. “Material Confidential Information” means competitively sensitive or proprietary information not independently known to a Person from sources other than the Person to which the information pertains, and includes, but is not limited to, all customer lists, price lists, marketing methods, patents, technologies, processes, or other trade secrets. The Held Separate Business shall be considered a Person separate from Respondent (as defined in this Hold Separate Order and the Decision and Order) for this purpose.
- M. “NDT” means non-destructive testing.
- N. “NDT Product” means any non-destructive testing equipment or system, excluding medical and explosive detection products and systems, used for the examination of materials and components without damaging or destroying them.
- O. “Person” means any individual, partnership, firm, trust, association, corporation, joint venture, unincorporated organization, or other business or governmental entity.
- P. “X-Ray NDT” or “X-Ray NDT Product” means NDT that uses X-Ray (using film-based systems, non-film-based systems and digital imaging systems) or

computed radiography as the inspection modality.

- Q. “X-Ray NDT Business” means YXLON, X-Ray NDT Documents, X-Ray NDT Intellectual Property, X-Ray NDT Software, X-Ray NDT Manufacturing Equipment, and all of InVision’s operations and businesses related to X-Ray NDT Products, including, but not limited to the production and manufacturing, inventory, real property, marketing, advertising, promotion, contracts, distribution, sale or after-sales support related to X-Ray NDT Products.
- R. “X-Ray NDT Documents” means all documents (including, but not limited to, computer files, electronic mail, and written, recorded, and graphic materials) possessed or owned by InVision related to X-Ray NDT Products, including, but not limited to, the following specified documents: reports relating to the research and development of X-Ray NDT Products or of any materials used in the research, development, manufacture, marketing or sale of X-Ray NDT Products; all market research data and market intelligence reports; customer information; all records relating to employees that accept employment with the Acquirer (excluding any personnel records the transfer of which is prohibited by applicable law); all records, including customer lists, sales force call activity reports, vendor lists, sales data, reimbursement data, manufacturing records, manufacturing processes, and supplier lists; all data contained in laboratory notebooks relating to X-Ray NDT Products; all diagrams and schematics relating to X-Ray NDT Products; all analytical and quality control data; and all correspondence with governmental agencies relating to X-Ray NDT Products, but excluding (i) all tax returns, financial statements, and working papers of InVision relating to Non-NDT Products; and (ii) documents and other information subject to attorney-client privilege relating to Non-NDT Products; *PROVIDED, HOWEVER*, that, if a document required to be produced pursuant to this Paragraph also contains information that is not related to the X-Ray NDT Products, Respondent need not produce that information to the extent it is contained within a discrete segment of the document that otherwise must be produced. *PROVIDED FURTHER*, that the Acquirer shall be allowed access to redacted copies of such documents otherwise excluded by this Paragraph to the extent they relate to X-Ray NDT Products.
- S. “X-Ray NDT Employees” means all of those individuals employed by YXLON or InVision (irrespective of the portion of working time involved) with any responsibility for the research, design, development, engineering, manufacturing, distributing, marketing, sales, or after-sales service and support of X-Ray NDT Products worldwide within the eighteen (18) month period immediately prior to the Effective Date of Divestiture.

- T. “X-Ray NDT Intellectual Property” means all of the following possessed or owned by InVision related to X-Ray NDT:
1. X-Ray NDT Patents;
 2. X-Ray NDT Trademarks;
 3. X-Ray NDT Trade Dress;
 4. X-Ray NDT Manufacturing Technology;
 5. X-Ray NDT Scientific and Regulatory Material; and
 6. rights to sue and recover damages or obtain injunctive relief for infringement, dilution, misappropriation, violation or breach of any of the foregoing.
- U. “X-Ray NDT Manufacturing Equipment” means all of YXLON’s and InVision’s rights and ownership in equipment, machines, and computers, and all parts, information, files, diagrams, schematics, instructions, software, and hardware related thereto, used in the manufacture, quality assurance and quality control, and packaging of X-Ray NDT.
- V. “X-Ray NDT Manufacturing Technology” means all technology, trade secrets, know-how, diagrams, schematics, software, calibrations, inventions, practices, proprietary algorithms, testing techniques, methods and other confidential or proprietary information related to the manufacture, quality assurance and quality control, and packaging of X-Ray NDT Products owned or used by InVision, including, but not limited to, manufacturing records, sampling records, standard operating procedures and batch records related to the manufacturing process, and supplier lists.
- W. “X-Ray NDT Patents” means all patents, patent applications and statutory invention registrations, in each case possessed or owned by InVision relating to X-Ray NDT Products, including all reissues, divisions, continuations, continuations-in-part, supplementary protection certificates, extensions and reexaminations thereof, all inventions disclosed therein, all rights therein provided by international treaties and conventions, and all rights to obtain and file for patents and registrations thereto in the world, related to the manufacture, use, sale, service, research or development of X-Ray NDT Products.

- X. “X-Ray NDT Scientific and Regulatory Material” means all technological, scientific, chemical, and electrical materials and information related to X-Ray NDT owned or used by InVision, and all rights thereto, in any and all jurisdictions.
- Y. “X-Ray NDT Software” means computer programs, including all software implementations of algorithms, models, and methodologies whether in source code or object code form, databases and compilations, including any and all data and collections of data, all documentation, including user manuals and training materials, related to any X-Ray NDT Products distributed, marketed, or sold by or on behalf of InVision; *PROVIDED, HOWEVER*, that “X-Ray NDT Software” does not include software that is readily purchasable or licensable and which has not been modified in a manner material to the use or function thereof (other than through user preference settings).
- Z. “X-Ray NDT Trade Dress” means all trade dress of X-Ray NDT Products distributed, marketed, or sold by or on behalf of InVision, including, but not limited to, domain names and internet sites, product packaging associated with the sale of X-Ray NDT Products worldwide and the lettering of such X-Ray NDT trade names or brand names.
- AA. “X-Ray NDT Trademarks” means all trademarks, trade names and brand names including registrations and applications for registration thereof (and all renewals, modifications, and extensions thereof) and all common law rights, and the goodwill symbolized thereby and associated therewith, for X-Ray NDT researched, developed, distributed, marketed, or sold by or on behalf of InVision.

II.

IT IS FURTHER ORDERED that:

- A. During the Hold Separate Period, Respondent shall hold the Held Separate Business separate, apart, and independent as required by this Hold Separate Order and shall vest the Held Separate Business with all rights, powers, and authority necessary to conduct its business; Respondent shall not exercise direction or control over, or influence directly or indirectly, the Held Separate Business or any of its operations, or the Hold Separate Trustee, except to the extent that Respondent must exercise direction and control over the Held Separate Business as is necessary to assure compliance with this Hold Separate Order, the Consent Agreement, and with all applicable laws, including, in consultation with the Hold Separate Trustee, continued oversight of the Held Separate Business’s compliance with policies and standards concerning the safety, health, and environmental

aspects of its operations and the integrity of its financial controls; and Respondent shall have the right to defend any legal claims, investigations or enforcement actions threatened or brought against any Held Separate Business.

- B. Until the Effective Date of Divestiture, Respondent shall take such actions as are necessary to maintain the viability and marketability of the Held Separate Business to prevent the destruction, removal, wasting, deterioration, or impairment of any of the assets, except for ordinary wear and tear.
- C. The purposes of this Hold Separate Order are to: (1) preserve the Held Separate Business as a viable, competitive, and ongoing business independent of Respondent until the divestiture required by the Decision and Order is achieved; (2) assure that no Material Confidential Information is exchanged between Respondent and the Held Separate Business, except in accordance with the provisions of this Hold Separate Order; (3) prevent interim harm to competition pending the relevant divestitures and other relief; and (4) help remedy any anticompetitive effects of the proposed Acquisition.
- D. Respondent shall hold the Held Separate Business separate, apart, and independent on the following terms and conditions:
 - 1. Mr. Hartmut G. Grossmann shall serve as Hold Separate Trustee, pursuant to the agreement executed by the Hold Separate Trustee and Respondent and attached as Confidential Appendix A (“Trustee Agreement”).
 - a. The Trustee Agreement shall require that, no later than one (1) day after the Acquisition Date, Respondent transfer to the Hold Separate Trustee all rights, powers, and authorities necessary to permit the Hold Separate Trustee to perform his/her duties and responsibilities, pursuant to this Hold Separate Order and consistent with the purposes of the Decision and Order.
 - b. No later than one (1) day after the Acquisition Date, Respondent shall, pursuant to the Trustee Agreement, transfer to the Hold Separate Trustee all rights, powers, and authorities necessary to permit the Hold Separate Trustee to perform his/her duties and responsibilities, pursuant to this Hold Separate Order and consistent with the purposes of the Decision and Order.
 - c. The Hold Separate Trustee shall have the responsibility, consistent with the terms of this Hold Separate Order and the Decision and Order, for monitoring the organization of the Held Separate

Business; for managing the Held Separate Business through the Manager; for maintaining the independence of the Held Separate Business; and for monitoring Respondent's compliance with its obligations pursuant to this Hold Separate Order and the Decision and Order.

- d. The Hold Separate Trustee shall have full and complete access to all personnel, books, records, documents and facilities of the Held Separate Business or to any other relevant information as the Hold Separate Trustee may reasonably request including, but not limited to, all documents and records kept by Respondent in the ordinary course of business that relate to the Held Separate Business. Respondent shall develop such financial or other information as the Hold Separate Trustee may request and shall cooperate with the Hold Separate Trustee. Respondent shall take no action to interfere with or impede the Hold Separate Trustee's ability to monitor Respondent's compliance with this Hold Separate Order and the Consent Agreement or otherwise to perform his/her duties and responsibilities consistent with the terms of this Hold Separate.
- e. The Hold Separate Trustee shall have the authority to employ, at the cost and expense of Respondent, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Hold Separate Trustee's duties and responsibilities.
- f. The Commission may require the Hold Separate Trustee to sign an appropriate confidentiality agreement relating to Commission materials and information received in connection with performance of the Hold Separate Trustee's duties.
- g. Respondent may require the Hold Separate Trustee to sign a confidentiality agreement prohibiting the disclosure of any Material Confidential Information gained as a result of his or her role as Hold Separate Trustee to anyone other than the Commission.
- h. Thirty (30) days after the Hold Separate Order becomes final, and every thirty (30) days thereafter until the Hold Separate Order terminates, the Hold Separate Trustee shall report in writing to the Commission concerning the efforts to accomplish the purposes of this Hold Separate Order. Included within that report shall be the

Hold Separate Trustee's assessment of the extent to which the businesses comprising the Held 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 Hold Separate Trustee ceases to act or fails to act diligently and consistent with the purposes of this Hold Separate Order, the Commission may appoint a substitute Hold Separate Trustee consistent with the terms of this paragraph, subject to the consent of Respondent, which consent shall not be unreasonably withheld. If Respondent has not opposed, in writing, including the reasons for opposing, the selection of the substitute Hold Separate Trustee within five (5) days after notice by the staff of the Commission to Respondent of the identity of any substitute Hold Separate Trustee, Respondent shall be deemed to have consented to the selection of the proposed substitute trustee. Respondent and the substitute Hold Separate Trustee shall execute a Trustee Agreement, subject to the approval of the Commission, consistent with this paragraph.
2. No later than one (1) day after the Acquisition Date, Respondent shall enter into a management agreement with, and transfer all rights, powers, and authorities necessary to manage and maintain the Held Separate Business, to Joseph M. Kosanetzky, Ph.D., the current Chief Executive of YXLON International X-Ray GmbH ("Manager").
 - a. In the event that Dr. Kosanetzky ceases to act as Manager, then Respondent 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 Order.
 - b. The Manager shall report directly and exclusively to the Hold Separate Trustee and shall manage the Held Separate Business independently of the management of Respondent. The Manager shall not be involved, in any way, in the operations of the other businesses of Respondent during the term of this Hold Separate Order.
 - c. The Manager shall have no financial interests affected by Respondent's revenues, profits or profit margins, except that the

Manager's compensation for managing the Held Separate Business may include economic incentives dependent on the financial performance of the Held Separate Business if there are also sufficient incentives for the Manager to operate the Held Separate Business at no less than current rates of operation (including, but not limited to, current rates of production and sales) and to achieve the objectives of this Hold Separate Order.

- d. The Manager shall make no material changes in the present operation of the Held Separate Business except with the approval of the Hold Separate Trustee, in consultation with the Commission staff.
 - e. The Manager shall have the authority, with the approval of the Hold Separate Trustee, to remove X-Ray NDT 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 Order, the Manager, in consultation with the Hold Separate Trustee, may request Respondent to, and Respondent shall, appoint a substitute person, which person the Manager shall have the right to approve.
 - f. In addition to those X-Ray NDT Employees within the Held Separate Business, the Manager may employ such Persons as are reasonably necessary to assist the Manager in managing the Held Separate Business.
 - g. The Hold Separate Trustee 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, Respondent shall appoint a replacement Manager, subject to the approval of the Commission, on the same terms and conditions as provided in Paragraph II.D.2 of this Hold Separate Order.
3. The Held Separate Business shall be staffed with sufficient employees to maintain the viability and competitiveness of the Held Separate Business. To the extent that any X-Ray NDT Employees leave or have left the Held Separate Business prior to the Effective Date of Divestiture, the Manager, with the approval of the Hold Separate Trustee, may replace departing or departed employees with persons who have similar experience and expertise or determine not to replace such departing or departed employees.

4. In connection with support services or products not included within the Held Separate Business, Respondent and InVision shall continue to provide, or offer to provide, the same support services to the Held Separate Business as are being provided to such business interest by Respondent and InVision as of the date the Consent Agreement is signed by Respondent. For any services or products that Respondent and InVision may provide to the Held Separate Business, Respondent may charge no more than the same price they charge others for the same services or products. Respondent's or InVision's personnel providing such services or products must retain and maintain all Material Confidential Information of the Held Separate Business on a confidential basis, and, except as is permitted by this Hold Separate Order, such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any person whose employment involves any of Respondent's or InVision's businesses, other than the Held Separate Business. Such personnel shall also execute confidentiality agreements prohibiting the disclosure of any Material Confidential Information of the Held Separate Business.

a. Respondent and InVision shall offer to the Held Separate Business any services and products that Respondent or InVision provided to their other businesses directly or through third party contracts, or that they have provided directly or through third party contracts to the businesses constituting the Held Separate Business at any time since January 1, 2003. The Held Separate Business may, at the option of the Manager with the approval of the Hold Separate Trustee, obtain such services and products from Respondent or InVision. The services and products that Respondent or InVision shall offer the Held Separate Business shall include, but shall not be limited to, the following:

- (1) Human resources administrative services, including but not limited to payroll processing, labor relations support, pension administration, and health benefits;
- (2) Environmental health and safety services, which are used to develop corporate policies and insure compliance with federal and state regulations and corporate policies;
- (3) Preparation of tax returns;
- (4) Audit services;

- (5) Information systems, which constructs, maintains, and supports all computer systems;
 - (6) Processing of accounts payable;
 - (7) Technical support;
 - (8) Finance and financial accounting services;
 - (9) Procurement of supplies;
 - (10) Procurement of goods and services utilized in the ordinary course of business by the Held Separate Business; and
 - (11) Legal services;
- b. the Held Separate Business shall have, at the option of the Manager with the approval of the Hold Separate Trustee, the ability to acquire services and products from third parties unaffiliated with Respondent or InVision.
5. Respondent shall cause the Hold Separate Trustee, the Manager, and each X-Ray NDT Employee having access to Material Confidential Information 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 Order. These individuals must retain and maintain all Material Confidential Information relating to the Held Separate Business on a confidential basis and, except as is permitted by this Hold Separate Order, such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any of Respondent's businesses other than the Held Separate Business. These persons shall not be involved in any way in the management, production, distribution, sale, marketing, or financial operations of the competing products of Respondent.
6. No later than five (5) days after the Acquisition Date, Respondent shall establish written procedures, subject to the approval of the Hold Separate Trustee, covering the management, maintenance, and independence of the Held Separate Business consistent with the provisions of this Hold Separate Order.

7. No later than five (5) days after the date this Hold Separate Order becomes final, Respondent shall circulate to employees of the Held Separate Business and to Respondent's employees who are responsible for the development, manufacture and sale of NDT products, a notice of this Hold Separate Order and the Consent Agreement.
8. The Hold Separate Trustee and the Manager shall serve, without bond or other security, at the cost and expense of Respondent, on reasonable and customary terms commensurate with the person's experience and responsibilities.
9. Respondent shall indemnify the Hold Separate Trustee 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 Hold Separate Trustee'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 misfeasance, gross negligence, willful or wanton acts, or bad faith by the Hold Separate Trustee or the Manager.
10. Respondent shall provide the Held Separate Business with sufficient financial resources:
 - a. as are appropriate in the judgment of the Hold Separate Trustee to operate the Held Separate Business as it is currently operated;
 - b. to perform all maintenance to, and replacements of, the assets of the Held Separate Business;
 - c. to carry on existing and planned capital projects and business plans; and
 - d. to maintain the viability, competitive vigor, and marketability of the Held Separate Business.

Such financial resources to be provided to the Held 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, 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.

11. Respondent shall not, during the Hold Separate Period, offer X-Ray NDT Employees positions with Respondent. The Acquirer shall have the option of offering employment to any X-Ray NDT Employees. Respondent shall not interfere with the employment, by the Acquirer of such employees; shall not offer any incentive to such employees to decline employment with the Acquirer or to accept other employment with the Respondent; and shall remove any impediments that may deter such employees 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 employees 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 employees would otherwise have been entitled had they remained in the employment of the Respondent.
12. For a period of two (2) years commencing on the Effective Date of Divestiture, Respondent shall not employ or make offers of employment to X-Ray NDT Employees who have accepted offers of employment with the Acquirer unless the individual's employment has been terminated by the Acquirer.
13. Except for the Manager, X-Ray NDT Employees, and support services employees involved in providing services to the Held Separate Business pursuant to Paragraph II.D.4., and except to the extent provided in Paragraph II.A., Respondent shall not permit any other of its employees, officers, or directors to be involved in the operations of the Held Separate Business.
14. Respondent shall assure that X-Ray NDT Employees receive, during the Hold Separate Period, their salaries, all current and accrued bonuses, pensions and other current and accrued benefits to which those employees would otherwise have been entitled.
15. Respondent's employees (excluding support services employees involved in providing support to the Held Separate Business pursuant to Paragraph II.D.4.) shall not receive, or have access to, or use or continue to use any Material Confidential Information of the Held Separate Business not in the public domain except:

- a. as required by law;
- b. to the extent that necessary information is exchanged in the course of consummating the Acquisition;
- c. in negotiating agreements to divest assets pursuant to the Consent Agreement and engaging in related due diligence;
- d. in complying with this Hold Separate Order or the Consent Agreement;
- e. in overseeing compliance with policies and standards concerning the safety, health and environmental aspects of the operations of the Held Separate Business and the integrity of the Held Separate Business's financial controls;
- f. in defending legal claims, investigations or enforcement actions threatened or brought against or related to the Held Separate Business; or
- g. in obtaining legal advice.

Nor shall the Manager or X-Ray NDT Employees receive or have access to, or use or continue to use, any Material Confidential Information not in the public domain about Respondent and relating to Respondent's businesses, except such information as is necessary to maintain and operate the Held Separate Business. Respondent may receive aggregate financial and operational information relating to the Held Separate Business only to the extent necessary to allow Respondent to comply with the requirements and obligations of the laws of the United States and other countries, and to prepare consolidated financial reports, tax returns, reports required by securities laws, and personnel reports. Any such information that is obtained pursuant to this subparagraph shall be used only for the purposes set forth in this subparagraph.

16. Respondent and the Held Separate Business shall jointly implement, and at all times during the Hold Separate Period maintain in operation, a system, as approved by the Hold Separate Trustee, of access and data controls to prevent unauthorized access to or dissemination of Material Confidential Information of the Held Separate Business, including, but not limited to, the opportunity by the Hold Separate Trustee, on terms and

conditions agreed to with Respondent, to audit Respondent's networks and systems to verify compliance with this Hold Separate Order.

III.

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

IV.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Hold Separate Order, and subject to any legally recognized privilege, and upon written request with reasonable notice to Respondent made to their principal United States offices, Respondent shall permit any duly authorized representative of the Commission:

- A. Access, during office hours of Respondent 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 Respondent relating to any matters contained in this Hold Separate Order; and
- B. Upon five (5) days' notice to Respondent and without restraint or interference from Respondent, to interview officers, directors, or employees of Respondent, who may have counsel present, regarding any such matters.

V.

IT IS FURTHER ORDERED that this Hold Separate Order 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 Effective Date of Divestiture required by the Consent Agreement.

By the Commission, Commissioner Harbour recused and Commissioner Leibowitz not participating.

Donald S. Clark
Secretary

SEAL
ISSUED: September 9, 2004

CONFIDENTIAL APPENDIX A
HOLD SEPARATE TRUSTEE AGREEMENT