

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

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

In the Matter of)	
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)	
CYTEC INDUSTRIES INC.)	Docket No. C-4132
a corporation.)	
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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 Cytec Industries Inc. (“Cytec”) of certain assets of UCB S.A. (“UCB”), and Respondent 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 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”), an admission by Respondent of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of the 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 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 Order”):

1. Respondent Cytec is a corporation organized, existing and doing business under and by virtue of the laws of Delaware, with its office and principal place of business located at Five Garret Mountain Plaza, West Paterson, New Jersey 07424.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent and the proceeding is in the public interest.

ORDER

I.

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

- A. “Cytec” means Cytec Industries Inc., its directors, officers, employees, agents, representatives, predecessors, successors, and assigns; and its parents, joint ventures, subsidiaries, divisions, groups, and affiliates controlled by Cytec, and the respective directors, officers, employees, agents, representatives, predecessors, successors, and assigns of each.
- B. “UCB” means UCB S.A., a corporation organized, existing, and doing business under and by virtue of the laws of Belgium, with its registered office located at 60 Allée de la Recherche, B-1070, Brussels, Belgium; and all joint ventures, subsidiaries, divisions, groups, and affiliates controlled by UCB, including without limitation Surface Specialties Inc. (formerly known as UCB Chemicals Corp.) and UCB, Inc.
- C. “Surface Specialties” means the Surface Specialties business of UCB which Cytec agreed to acquire as described in the October 1, 2004, Stock and Asset Purchase Agreement between UCB S.A. and Cytec Industries Inc.
- D. “Commission” means the Federal Trade Commission.
- E. “Respondent” means Cytec Industries Inc.
- F. “Acquirer” means each Person approved by the Commission to acquire the UCB Amino Resins Business pursuant to Paragraphs II or V of this Order.
- G. “Actual Cost” means actual direct material plus actual direct labor plus allocated actual manufacturing overhead at the Suzano Amino Resins Facility, the Werndorf Amino Resins Facility and the La Llagosta Amino Resins Facility.

- H. “Acquisition” means the proposed acquisition of Surface Specialties by Cytec, as described in the October 1, 2004, Stock and Asset Purchase Agreement between UCB S.A. and Cytec Industries Inc.
- I. “Amino Resins” means products obtained through the addition of formaldehyde to urea, melamine or benzoguanamine and such products etherified with linear or branched aliphatic alcohols (C1-C18 atoms). This definition excludes the products obtained through the addition of formaldehyde to phenols (the phenolics), the products obtained through the addition of formaldehyde to carbamates (such as HF480 and Alvnovol VPN 1759) and the products obtained through the reaction of butylated urea formaldehyde with alkyds (plasticized urea formaldehyde resins).
- J. “Amino Resin Products” means all of those grades and types of Amino Resins currently manufactured, marketed, or sold by UCB, all of those grades and types of Amino Resins currently being researched or developed by UCB, and all of those grades and types of Amino Resins that have been researched, developed, manufactured, marketed, or sold by UCB or any predecessor any time within five years of the date this Order is accepted by the Commission for public comment. “Amino Resin Products” does not include formulated or combination products consisting of an Amino Resin and one or more polymers, other than Modacure™ resins.
- K. “Divestiture Agreements” means any agreement that receives the prior approval of the Commission between Respondent and an Acquirer (or between a trustee appointed pursuant to Paragraph V of this Order and an Acquirer) related to the UCB Amino Resins Business required to be divested pursuant to Paragraphs II or V of this Order and the rights or assets to be licensed or otherwise made available to the Acquirer pursuant to Paragraph II of this Order, including, but not limited to any agreement between the Respondent and the Acquirer required or permitted by or pursuant to Paragraph II.B. of this Order.
- L. “Indian Orchard Manufacturing Facility” means the industrial park owned and operated by Solutia, Inc. near Springfield, Massachusetts and the immediate vicinity.
- M. “Indian Orchard Amino Resins Facility” means buildings, structures, fixtures, equipment, machinery, and other tangible property owned, operated, leased, or otherwise within the custody or control by or on behalf of UCB and located at the Indian Orchard Manufacturing Facility used for any purpose related to the research, development, manufacture, marketing, sale, and distribution of Amino Resin Products.
- N. “Fechenheim Manufacturing Facility” means the industrial park owned by AllestraChemie GmbH near Fechenheim, Germany and the immediate vicinity.

- O. “Fechenheim Amino Resins Facility” means buildings, structures, fixtures, equipment, machinery, and other tangible property owned or operated by or on behalf of UCB and located at the Fechenheim Manufacturing Facility used for any purpose related to the research, development, manufacture, marketing, sale, and distribution of Amino Resin Products.
- P. “Fechenheim Additives” means the additives listed on Exhibit A to this Order, together with any improvements.
- Q. “Fechenheim Additives Business” means:
1. the buildings, structures, fixtures, equipment, machinery, and other tangible property owned or operated by or on behalf of UCB and located at the Fechenheim Manufacturing Facility used for any purpose related to the research, development, manufacture, marketing, sale, and distribution of Fechenheim Additives;
 2. the books, records, and files (whether stored in electronic, magnetic, paper, or any other format) located at the Fechenheim Manufacturing Facility that are related to the research, development, manufacture, marketing, sale and distribution of the Fechenheim Additives;
 3. all of UCB’s rights in intellectual property that is used exclusively in the research, development, manufacture, marketing, sale and distribution of Fechenheim Additives;
 4. all of UCB’s rights in any tolling agreement pursuant to which AllessaChemie GmbH produces Fechenheim Additives; and
 5. a perpetual, non-exclusive, royalty-free license, limited to the field of Fechenheim Additives, to all of UCB’s other intellectual property, as of the date this Order is accepted by the Commission for public comment, used in the research, development, manufacture, marketing, sale and distribution of Fechenheim Additives, with a right to sub-license customers for use in connection with products the customer purchases from the Acquirer.
- R. “LaSalle Toll Agreement” means the January 31, 2003, agreement between UCB Chemicals Corp. and UCB, Inc. and Solutia Canada Inc. relating to the toll manufacture of Amino Resin Products for UCB at Solutia Canada Inc.’s manufacturing site in LaSalle, Quebec.
- S. “Divestiture Trustee” means the divestiture trustee(s) appointed pursuant to Paragraph V. of this Order.

- T. “Effective Date of Divestiture” means the date on which the divestiture of the UCB Amino Resins Business to the Acquirer is consummated.
- U. “La Llagosta Amino Resins Facility” means the buildings, structures, fixtures, equipment, machinery and other tangible property owned or operated by or on behalf of UCB and located at the industrial facility owned by Surface Specialties at La Llagosta, Spain.
- V. “Confidential Business Information” means any information relating to the UCB Amino Resins Business or the Fechenheim Additives Business (but excluding the assets that are described in Paragraph I.Q.5 in the definition of that business) (before or after the divestiture required by Paragraph II of this Order) that is not in the public domain, including, but not limited to:
1. all contracts, sales call reports, customer purchase orders, customer product specifications and requirements, records of historical customer purchases, customer correspondence, customer information, invoices, payment records, customer records, and customer files (whether stored in electronic, magnetic, paper, or any other format) relating to the UCB Amino Resins Business, or the sale of Amino Resins to any customers anywhere in the world at any time within five (5) years of the date this Order is accepted by the Commission for public comment; and,
 2. all know-how, trade secrets, ongoing research and development, research materials, technical information, data of any kind (whether stored in electronic, magnetic, paper, or any other format) relating to the research, development, manufacture, marketing or sale of Amino Resins anywhere in the world.

Confidential Business Information shall not include: (i) information that subsequently falls within the public domain through no violation of this Order by Respondent or breach of a confidentiality or non-disclosure agreement with respect to such information; (ii) information in the Respondent’s possession as of the date hereof that was not obtained from UCB pursuant to the Confidentiality Agreement dated February 20, 2004, between Cytec and UCB; (iii) information independently developed by Respondent without reference to or use of information that Respondent obtained from the UCB Amino Resins Business after February 20, 2004; (iv) information that is required by law to be disclosed; (v) information that may be contained in documents or databases that also contain Confidential Business Information but does not relate to the UCB Amino Resins Business or (vi) information relating to the Fechenheim Additives Business that is currently used in UCB’s additives business outside Fechenheim.

- W. “Person” means any individual, partnership, joint venture, firm, corporation, association, trust, unincorporated organization, joint venture, or other business or governmental entity.

X. “Primarily Related,” when used to determine the appropriate allocation of an intangible asset between the UCB Amino Resins Business and the other Surface Specialties businesses listed in Paragraph I.AA.35, means:

1. For an asset that has commercial application, that more than fifty percent (50%) of the revenue derived from sales of products that make use of the asset were in calendar year 2004 attributable to products sold by the other Surface Specialties businesses; and,
2. For an asset that does not have commercial application as of the date this Order is accepted by the Commission for public comment, that the primary inventor of the asset was employed by one or more of those other Surface Specialties businesses.

Y. “UCB Amino Resins Business” means all assets of the UCB Surface Specialties Business anywhere in the world relating to the research, development, marketing, sale, and production of Amino Resin Products, including, but not limited to:

1. the Indian Orchard Amino Resins Facility and the Fechenheim Amino Resins Facility;
2. an assignment of all of UCB’s rights and obligations to the LaSalle Toll Agreement;
3. an assignment of all of UCB’s rights and obligations to all contracts with Solutia that relate solely to the research, development, marketing, sale, and production of Amino Resin Products;
4. with respect to any contracts with Solutia that relate to the research, development, marketing, sale and production of both Amino Resin Products and other products, an assignment or other transfer (in a manner approved by the Commission) of all of UCB’s rights and obligations under such contracts that relate to the research, development, marketing, sale, and production of Amino Resin Products;
5. all real property (together with appurtenances, licenses and permits) used for any purpose related to the research, development, manufacture, marketing, sale, and distribution of Amino Resins;
6. all patents, patent applications, copyrights, trademarks, trade names, owned by UCB, or that UCB has acquired any rights to use, that are related to the research, development, manufacture, marketing, sale or use of Amino Resins;
7. all know-how, trade secrets, ongoing research and development, research

materials, technical information, data of any kind (whether stored in electronic, magnetic, paper, or any other format), management information systems, information contained in management information systems, software, inventions, quality control data, test data, technological know-how, licenses, assignments, registrations, submissions, approvals, technology, specifications, designs, drawings, processes, recipes, protocols, and formulas, and all other intellectual property rights or confidential business information (in whatever form or medium), relating to the research, development, manufacture, marketing, or sale, and use of Amino Resins;

8. all contracts relating to the research, manufacture, marketing, or sale, and use of Amino Resins entered into with customers (together with associated bid and performance bonds), suppliers, sales representatives, distributors, agents, employees, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees, and joint venture partners;
9. all governmental approvals, consents, licenses, permits, waivers, or other authorizations relating to the Indian Orchard Amino Resins Facility or the Fechenheim Amino Resins Facility;
10. all warranties and guarantees, express or implied, relating to any tangible or intangible asset, including the Indian Orchard Amino Resins Facility and the Fechenheim Amino Resins Facility, related to the research, development, manufacture, marketing, or sale, and use of Amino Resins;
11. all customer lists, vendor lists, catalogs, sales promotion literature, and advertising materials relating to the research, development, manufacture, marketing, or sale, and use of Amino Resins;
12. all contracts, sales call reports, customer purchase orders, customer product specifications and requirements, records of historical customer purchases, customer correspondence, customer information, information relating to customer qualification of Amino Resin Products, invoices, payment records, customer records, and customer files (whether stored in electronic, magnetic, paper, or any other format) relating to the UCB Amino Resins Business, or the sale of Amino Resins to any customers anywhere in the world at any time in the last 5 years;
13. all books, records, and files (whether stored in electronic, magnetic, paper, or any other format) relating to Amino Resins Products, together with access to any records Respondent retains to the extent necessary to permit the Acquirer to comply with applicable law or to defend itself against claims made on the basis of any liability it assumes in connection with its acquisition of the UCB Amino Resins Business and the Fechenheim

Additives Business;

14. all plant facilities, machinery, equipment, furniture, fixtures, tools, vehicles, transportation and storage facilities, and supplies relating to the research, development, manufacture, marketing, or sale, and use of Amino Resins;
15. all rights in and to inventories of products, raw materials, supplies and parts, including work-in-process and finished goods relating to the research, development, manufacture, marketing, or sale, and use of Amino Resins;
16. all items of prepaid expense relating to the research, development, manufacture, marketing, or sale, and use of Amino Resins; and
17. any other tangible or intangible assets relating to the research and development, manufacture, marketing, distribution or sale of Amino Resins that are reasonably necessary, in the sole discretion of the Commission, to operate the UCB Amino Resins business in a scope and manner to achieve the purposes of this Order or sufficient to remedy the harm to competition alleged in the Complaint.

Provided, however, that the UCB Amino Resins Business does not include any of the following:

18. the Werndorf Amino Resins Facility;
19. the La Llagosta Amino Resins Facility;
20. the Suzano Amino Resins Facility;
21. any assets used exclusively for the five (5) years prior to the date this Order is accepted by the Commission for public comment for the research, development, manufacture, marketing, or sale of products other than Amino Resin Products;
22. any assets described in paragraphs I.AA.5, 10, 14 or 16 at or relating to the Werndorf Amino Resins Facility, the La Llagosta Amino Resins Facility or the Suzano Amino Resins Facility;
23. All governmental approvals, consents, licenses, permits, waivers, or other authorizations relating to the Werndorf Amino Resins Facility, the La Llagosta Amino Resins Facility or the Suzano Amino Resins Facility;
24. Any rights in or to inventories of products, raw materials, supplies or

parts, including work-in-process, but not including finished goods, to the extent they relate to the manufacture of Amino Resins at the Werndorf Amino Resins Facility, the La Llagosta Amino Resins Facility or the Suzano Amino Resins Facility;

25. The patents and patent applications set forth on Exhibit B to this Order;
26. The laboratory equipment at the Indian Orchard Manufacturing Facility set forth on Exhibit C to this Order;
27. Any assets transferred, retired or disposed of during the Hold Separate period in the ordinary course of business;
28. Assets of any benefit plans allocable to the UCB Amino Resins Employees, to the extent the Acquirer does not assume liabilities associated with those plans prior to the Effective Date;
29. The UCBTM and Surface SpecialtiesTM marks and any derivatives thereof;
30. Any personnel records of UCB and Surface Specialties employees other than UCB Amino Resin Employees;
31. UCB's and Surface Specialties' corporate and regional headquarters;
32. Any management information systems (but not including Confidential Business Information that may reside on those systems), including hardware and software used by UCB or Surface Specialties prior to the Effective Date to provide services to UCB or Surface Specialties, that were not solely related to the UCB Amino Resins Business, including but not limited to all assets used by UCB and/or Surface Specialties to provide transition services to Cytec and to the UCB Amino Resins Business under the transition services agreement to be entered into between UCB and Cytec in connection with the Acquisition;
33. Assets of any UCB or Surface Specialties corporate service function that is not solely related to the UCB Amino Resins Business and all sales offices that are not solely related to the UCB Amino Resins Business;
34. Any and all cash and cash equivalents;
35. Any intangible asset that has not been used in the research and development, manufacture, marketing, distribution or sale of Amino Resins in the two years preceding the date the Order is accepted by the Commission for public comment and that is Primarily Related to any of the following Surface Specialties Businesses: Radcure, alkyd, acrylic, urethane and epoxy coating resins, powder coating resins, adhesives, and

additives (other than Fechenheim Additives and Modacure™);

36. Any tax returns of any Surface Specialties entity, Cytec or any affiliate of Cytec;
 37. All insurance policies relating to the UCB Amino Resins Business and any right to proceeds thereunder;
 38. Any asset that Cytec did not acquire as part of its acquisition of Surface Specialties.
- Z. “UCB Amino Resins Employees” means the people listed on Exhibit D to this Order, together with any other current full-time employees of Surface Specialties as of the Effective Date of Divestiture who, at any time within two years prior to the Effective Date of Divestiture of the UCB Amino Resins Business, were employed by the UCB Amino Resins Business or supported the UCB Amino Resins Business, excluding sales, distribution, technical service, customer service, legal, accounting or other purely administrative support personnel.
- AA. “UCB Amino Resins Production Information” means all information relating to the past, present, planned, developed, or researched production of each grade of Amino Resins Products anywhere in the world, including pursuant to the LaSalle Toll Agreement, and includes all proprietary and public information relating to the specifications for each grade of Amino Resins Products, the raw material formulations, the operating conditions, the finishing process, the equipment cleaning procedures, plant maintenance information, the specifications for the manufacturing equipment, and any other information which relates to past, present, planned, developed, or researched production by UCB of any grades of Amino Resin Products in the ordinary course of business.
- BB. “Suzano Amino Resins Facility” means buildings, structures, fixtures, equipment, machinery and other tangible property owned or operated by or on behalf of UCB and located at the industrial facility owned by Surface Specialties in Suzano, Brazil.
- CC. “Werndorf Amino Resins Facility” means buildings, structures, fixtures, equipment, machinery and other tangible property owned or operated by or on behalf of UCB and located at the industrial facility owned by Surface Specialties in Werndorf, Austria.
- DD. “Decision and Order” means:
1. until the issuance of a final Decision and Order by the Commission, the proposed Decision and Order incorporated into and made a part of the Consent Agreement; or,

2. following the issuance of a final Decision and Order by the Commission, the Decision and Order issued by the Commission.
- EE. “Divestiture Trustee” means the divestiture trustee(s) appointed pursuant to Paragraph V. of the Decision and Order.
- FF. “Held Separate Business” means the UCB Amino Resins Business.
- GG. “Hold Separate Order” means the Order to Hold Separate and Maintain Assets incorporated into and made a part of the Agreement Containing Consent Orders.
- HH. “Hold Separate Period” means the time period during which the Hold Separate is in effect, which shall begin on the date that the Acquisition is consummated and terminated pursuant to Paragraph VII. hereof.
- II. “Hold Separate Trustee” means the trustee appointed pursuant to Paragraph II of this Hold Separate Order.
- JJ. “Monitor Trustee” means the trustee appointed pursuant to Paragraph IV. of the Decision and Order.

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 Confidential Business 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. Richard M. Klein shall serve as Hold Separate Trustee.
 2. Within five (5) days of the date this Hold Separate Order becomes final, Respondent shall execute an agreement with the Hold Separate Trustee (“Trustee Agreement”) that, subject to the approval of the Commission, confers at least the following rights and obligations upon the Respondent and the Hold Separate Trustee:
 - 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 Confidential Business 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.

3. Respondent shall comply with all terms of the Trustee Agreement, and any breach by Respondent of any term of the Trustee Agreement shall constitute a violation of this Order. Notwithstanding any paragraph, section, or other provision of the Trustee Agreement, any modification of the Trustee Agreement, without the prior approval of the Commission, shall constitute a failure to comply with this Order.
4. 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 Steven Zollmann (“Manager”).
 - a. In the event that Steven Zollmann 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 UCB Amino Resins 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 UCB Amino Resins 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.
5. 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 UCB Amino Resins 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.
6. In connection with support services or products not included within the Held Separate Business, Respondent 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 or UCB as of the date the Consent Agreement is signed by Respondent. For any services or products that Respondent and UCB may provide to the Held Separate Business, Respondent may charge no more than the same price they charge others (or subsidiaries, divisions, affiliates, or units of Respondent or UCB) for the same services or products. Respondent's personnel providing such services or products must retain and maintain all Confidential Business 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 UCB's businesses, other than the Held Separate Business. Such personnel shall also execute confidentiality agreements prohibiting the disclosure of any Confidential Business Information of the Held Separate Business.

- a. Respondent shall offer to the Held Separate Business any services and products that Respondent or UCB 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. The services and products that Respondent 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 UCB.
7. In addition to any other support services or products required by this Hold Separate Order, Respondent shall sell and provide to the Held Separate Business during the term of the Hold Separate Order a supply of all, or any one or more, of the Amino Resins Products that complies with the requirements of Paragraph II.B.1. of the Decision and Order.
8. Respondent shall cause the Hold Separate Trustee, the Manager, and each UCB Amino Resins Employee having access to Confidential Business 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 Confidential Business 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.
9. 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.
10. 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 Amino Resins Products, a notice of this Hold Separate Order and the Consent Agreement.
11. 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.

12. 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.
13. 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 (including, but not limited to, those projects related to any services or products provided under contracts with Solutia) 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.

14. Respondent shall not, during the Hold Separate Period, offer UCB Amino Resins Employees positions with Respondent. The Acquirer shall have the option of offering employment to any UCB Amino Resins 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.

15. For a period of two (2) years commencing on the Effective Date of Divestiture, Respondent shall not employ or make offers of employment to UCB Amino Resins Employees who have accepted offers of employment with the Acquirer unless the individual's employment has been terminated by the Acquirer.
16. Except for the Manager, UCB Amino Resins 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.
17. Respondent shall assure that UCB Amino Resins 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.
18. Respondent's employees (excluding support services employees involved in providing support to the Held Separate Business pursuant to this Hold Separate Order) shall not receive, or have access to, or use or continue to use any Confidential Business 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 UCB Amino Resins Employees receive or have access to, or use or continue to use, any Confidential Business 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.

- 19. 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 Confidential Business 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.

Donald S. Clark
Secretary

SEAL

ISSUED: February 28, 2005