

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeney

_____)	
In the Matter of)	
)	
)	
ZF Friedrichshafen AG,)	
a corporation; and,)	
)	Docket No. C-
)	
TRW Automotive Holdings Corp.,)	
a corporation.)	
)	
_____)	

DECISION AND ORDER
[Public Record Version]

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed acquisition by Respondents ZF Friedrichshafen AG (“ZF”) of TRW Automotive Holdings Corp. (“TRW”), hereinafter referred to as “Respondents,” and Respondents having been furnished thereafter with a copy of a 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 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 has reason to believe that Respondents have violated the said Acts, and that a Complaint should issue stating its charges in that respect, and having thereupon issued its Complaint and an Order to Hold Separate and Maintain Assets, and having accepted the executed Consent Agreement and placed 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 the following Decision and Order (“Order”):

1. Respondent ZF Friedrichshafen AG is a stock corporation organized, existing and doing business under and by virtue of the laws of the Federal Republic of Germany, with its office and principal place of business located at Friedrichshafen, Germany.
2. Respondent TRW Automotive Holdings Corp. is a public 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 12001 Tech Center Drive, Livonia, MI 48150.
3. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and of Respondents, and this proceeding is in the public interest.

ORDER

I.

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

- A. “ACCO Execution Date” means the date upon which Respondents have executed the Agreement Containing Consent Orders pursuant to which this Order has been issued.
- B. “Acquirer” means the Person approved by the Commission to acquire the TRW L&S Business pursuant to this Order.
- C. “Acquisition” means the proposed acquisition of TRW by ZF as described and contemplated by the Agreement and Plan of Merger dated September 15, 2014, as amended, between ZF and TRW.
- D. “Acquisition Date” means the date the Acquisition is consummated.
- E. “Books and Records” means any and all original, copies, drafts, and final versions of all books, records, files, customer files, customer lists, customer purchasing histories, vendor files, vendor lists, advertising and marketing materials, sales materials, technical information, architectural drawings and blueprints of any kind, databases, financial information, reports, regulatory materials, or documents, information, and files of any kind, regardless of whether the document, information, or files are stored or maintained

in traditional paper format, by means of electronic, optical, or magnetic media or devices, photographic or video images, or any other format or media.

- F. “Commission” means the Federal Trade Commission.
- G. “Contracts” means all real and personal property leases, software licenses, Intellectual Property licenses, warranties, guaranties, insurance agreements, employment contracts, all contracts of any kind relating to construction, customer contracts, sales contracts, supply agreements, utility contracts, collective bargaining agreements, confidentiality agreements, non-disclosure agreements, and contracts or agreements of any kind.
- H. “DAS” means 100% of the shares of TRW - DAS a.s., a joint stock company, which company owns all of Respondents’ rights, title, and interests in the Facility Assets:
 - 1. Located at the real property described in Exhibit 1 to this Decision and Order; and,
 - 2. Relating to the research, engineering, manufacture, marketing, and sale of L&S Components in North America and Europe by TRW.
- I. “Direct Costs” means cost not to exceed the cost of labor, material, travel, freight or other transportation, processing, and other expenditures to the extent the costs are directly incurred to provide Transitional Services or to perform a Transition Required Input Supply Agreement. “Direct Cost” to a Commission-approved Acquirer for its use of any of Respondents’ employees’ labor shall not exceed the then-current average wage rate for such employee, including benefits.
- J. “Divestiture Agreement” means one or more agreements approved by the Commission between Respondents and an Acquirer divesting the TRW L&S Business as required by this Order. The Divestiture Agreement includes, but is not limited to, the Dusseldorf Lease, any License Back, any Transition Services Agreement, any Transition Required Inputs Supply Agreement, and any Transition Trademark Assistance Agreement.
- K. “Divestiture Date” means the date upon which the divestiture required by this Order is consummated.
- L. “Divestiture Trustee” means the Divestiture Trustee appointed pursuant to Paragraph VI of this Order.
- M. “Dusseldorf Design, Engineering & Sales Support” means:
 - 1. All of Respondents’ rights, title, and interests in the Facility Assets:
 - a. Located at Hansa Allee 190, Düsseldorf, Rheinland-Pfalz, 40547, Germany (but shall exclude any interest in any owned or leased real property itself, or any buildings or improvements on owned or leased real property, together with all easements, rights of way, and appurtenances); and,
 - b. Relating to the research and development, design and engineering support activities for the development of L&S Component designs and process specifications and prototype development, production and testing, as well

as purchasing, sales and marketing support activities, undertaken at Hansa Allee 190, Düsseldorf, Rheinland-Pfalz, 40547, Germany;
Provided, however, Dusseldorf Design, Engineering & Sales Support excludes any Facility Assets related to products other than L&S Components.

- N. “Dusseldorf Lease” means an agreement for the Acquirer to lease upon commercially reasonable terms the areas within the buildings located at Hansa Allee 190, Düsseldorf, Rheinland-Pfalz, 40547, Germany which are, as of the ACCO Execution Date, used in the ordinary course for the Dusseldorf Design, Engineering & Sales Support (or which any business plan or other planning document in existence as of the ACCO Execution Date contemplates being accomplished through use of the Dusseldorf Design, Engineering & Sales Support, and to the extent not contemplated to be covered through other assets included in the TRW L&S Business as of the ACCO Execution Date). The term of the Dusseldorf Lease shall not exceed one (1) year; provided, however, at the option of the Acquirer, the Dusseldorf Lease may be extended for an additional period of six (6) months but only insofar as the lease covers the right to access and use and produce prototypes and to use testing equipment located at Hansa Allee 190, Düsseldorf, Rheinland-Pfalz, 40547, Germany. The Dusseldorf Lease shall also provide by lease or other written agreement the right for the Acquirer to use fixtures, equipment, utility services, computers, office equipment, and other tangible property of every kind as may be necessary for the Acquirer to use leased areas of the buildings. The Dusseldorf Lease shall also provide easements or other reasonable access across Respondents’ real property to allow for the Acquirer to use the leased property in a commercially reasonable manner. All of the terms of the Dusseldorf Lease shall be sufficient to allow the Acquirer to use the leased property in a manner to achieve the purposes of this Order. The Dusseldorf Lease shall include terms to prevent the Acquirer from disclosing and Respondents from acquiring or using Material Confidential Information about the Acquirer’s conduct of business at the leased site and shall obligate Respondents and the Acquirer to comply fully with all terms to ensure that Material Confidential Information will not be exchanged between Respondents and the Acquirer and that Respondents will not use any Material Confidential Information of the TRW L&S Business except as required or permitted by this Decision and Order and Order and the Hold Separate Order.
- O. “Equivalent Employee Benefits” means any one or more of the TRW Employee Benefits that Respondents are unable to continue to provide after the Acquisition Date. Equivalent Employee Benefits shall provide substantially the same or greater economic benefit to each of the TRW Employees as provided by the TRW Employee Benefit no longer provided to the TRW Employee. With respect to health insurance benefits or the like, Respondents shall structure, provide, and administer the Equivalent Employee Benefits so as to prevent TRW Employees from the need to satisfy additional annual or other periodic deductibles before coverage begins, from making co-payments for medical, dental, or psychological care greater than those required under the TRW Employee Benefits, and from making greater co-payments for pharmacological products than those required under the TRW Employee Benefits. With respect to any TRW Employee who has the option to acquire stock in TRW as part of the TRW Employee Benefits,

Respondent shall provide a financial benefit (without the option to purchase additional TRW stock) to the TRW Employee of substantially equivalent economic value.

P. “Excluded Intellectual Property” means:

1. All Intellectual Property that has not been used or planned to be used by the TRW L&S Business since January 1, 2014; and,
2. All Trademarks, including, without limitation, the TRW trademark.

Q. “Facility Assets” means:

1. All real property interests, including rights, title, and interests in and to owned or leased property (subject to the terms of such lease agreements), together with all easements, rights of way, buildings, improvements, and appurtenances;
2. All applicable federal, state, and local regulatory agency registrations, permits, and applications, and all documents related thereto, necessary for the operations of, and conduct of business at, such applicable facility, to the extent held by Respondents and with respect to which the transfer thereof is permitted by law, provided, however, that Respondents shall cooperate with the Acquirer and reasonably assist the Acquirer in securing any federal, state, and local regulatory agency registrations, permits, and applications whose transfer is not permitted by law; and
3. All fixtures, equipment, machinery, tools, vehicles, personal property, or tangible property of any kind located at such applicable facility that is owned or leased by Respondents, or that Respondents have the legal right to use, or to have the custody or control of (but subject to the terms of such lease or use agreements), that is used in the TRW L&S Business.

R. “Governmental Entity” means any federal, provincial, state, county, local, or other political subdivision of the United States, any European country, or any other country, or any department or agency thereof.

S. “Hold Separate Order” means the Order to Hold Separate and Maintain Assets (including any modifications thereto) issued by the Commission in this matter.

T. “Hold Separate Monitor” means the Person approved by the Commission to serve as a Hold Separate Monitor pursuant to the Hold Separate Order issued by the Commission.

U. “Intellectual Property” means all intellectual property owned or licensed (as licensor or licensee) by any Person, and all associated rights thereto, including all of the following in any jurisdiction throughout the world: (i) all Patents; (ii) all trade secrets, Know-how, and confidential or proprietary information (including ideas, research and development, formulas, compositions, technical data and information, blue prints, designs, drawings, specifications, protocols, quality control information, customer and supplier lists, pricing and cost information, business and marketing plans and proposals, and all other data, technology, and plans); (iii) all Trademarks, brand names, commercial names, trade names, “doing business as” (d/b/a) names, registered and unregistered Trademarks, trade dress, logos, slogans, service marks, internet website content and internet domain names,

together with all translations, adaptations, derivations, and combinations thereof, and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith; (iv) all copyrightable works, all registered and unregistered copyrights in both published works and unpublished works, and all applications, registrations, and renewals in connection therewith; (v) all computer software (including source code, executable code, data, databases, and related documentation); (vi) all advertising and promotional materials; and (vii) all rights to sue and recover damages or obtain injunctive relief for infringement, dilution, misappropriation, violation, or breach of any of the foregoing.

V. “Inventories” means:

1. All supplies and inventory of one or more of any of the L&S Components; and,
2. All supplies and inventory of raw materials and supplies (including, but not limited to, Required Inputs) relating to the research, engineering, manufacture, marketing, and sale of any one or more of the L&S Components.

W. “License Back” means a perpetual, royalty-free license from the Acquirer for Respondents to use Intellectual Property, which Intellectual Property was delivered to or used by TRW businesses other than the TRW L&S Business prior to March 12, 2015 (which is described in Confidential Appendix A to this Decision and Order), as needed for the sole purpose of the research, development, production, manufacture, marketing, and sale of products and for such fields of use as follows:

1. Tie rods used in TRW’s non-competing steering business currently at TRW’s Schalke facility (located at Freiligrathstrasse 8-28, D-45881, Gelsenkirchen, Germany) which manufactures tie rods for steering gears, but only insofar as TRW’s production of tie rods for steering gears at the Schalke facility is exclusively for captive use by TRW’s steering business and is not used to supply any third-party customers; and,
2. L&S Components used in TRW’s independent aftermarket business, but only insofar as such L&S Components are not sold in competition with products produced by the TRW L&S Business and sold to original equipment manufacturers or original equipment suppliers.

The License Back may not be assigned or sublicensed except to a wholly owned subsidiary or division of Respondents, except in connection with the sale of substantially all of the assets of Respondents related to the business for which the License Back is granted. Nothing contained in this Decision and Order shall prevent Respondents and the Acquirer from agreeing in the Divestiture Agreement to license back additional TRW L&S Intellectual Property, provided, however, that any such agreement remains subject to Commission approval.

X. “L&S Components” means linkage and suspension components for light vehicles and heavy vehicles for which research, engineering, marketing, manufacture and sale is performed at or from TRW L&S Facilities, including but not limited to control arms, ball joints, stabilizer links, tie rods, conventional steering linkage, drag links, V-links, and

radius rods. For purposes of this Decision and Order, L&S Components includes I-shafts but only I-shafts for heavy vehicles manufactured at the Portland Facility.

- Y. “Know-how” means know-how, trade secrets, techniques, data, inventions, practices, methods, and other confidential or proprietary technical, business, research, development and other similar information.
- Z. “Krefeld-Gellep Facility” means all of Respondents’ rights, title, and interests in the Facility Assets:
1. Located at the real property described in Exhibit 2 to this Decision and Order; and,
 2. Relating to the research, engineering, manufacture, marketing, and sale of L&S Components in North America and Europe by TRW.
- AA. “Material Confidential Information” means any material non-public information relating to the TRW L&S Business either prior to or after the Divestiture Date, including, but not limited to, business and strategic plans, customer or supplier lists, customer or supplier contract terms, historical information about sales to customers or purchases from suppliers, manufacturing costs, price lists, marketing methods, patents, technologies, processes, or other trade secrets, relating to the TRW L&S Business and:
1. Obtained by Respondents prior to the Divestiture Date; or,
 2. Obtained by Respondents after the Divestiture Date, in the course of performing Respondents’ obligations under any Divestiture Agreement or the Hold Separate Order;
- Provided, however,* that Material Confidential Information shall not include:
1. Information that is in the public domain when received by Respondents;
 2. Information that is not in the public domain when received by Respondents and thereafter becomes public through no act or failure to act by Respondents;
 3. Information that Respondents develop or obtain independently, without violating any applicable law or this Order, and without breaching any confidentiality obligation with respect to the information; and,
 4. Information that becomes known to Respondents from a third party not in breach of applicable law or a confidentiality obligation with respect to the information.
- BB. “Order Date” means the date upon which this Order was issued by the Commission.
- CC. “Patent” means all patents, patent applications, including provisional patent applications, invention disclosures, certificates of invention and applications for certificates of invention and statutory invention registrations, in each case existing as of the Effective Date, and includes all reissues, additions, divisions, continuations, continuations-in-part, supplementary protection certificates, restorations, 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.

- DD. “Person” means any individual, partnership, joint venture, firm, corporation, association, trust, unincorporated organization, joint venture, or other business or Governmental Agency, and any subsidiaries, divisions, groups, or affiliates thereof.
- EE. “Portland Facility” means all of Respondents’ rights, title, and interests in the Facility Assets:
1. Located at the real property described in Exhibit 3 to this Decision and Order; and,
 2. Relating to the research, engineering, manufacture, marketing, and sale of L&S Components in North America and Europe by TRW.
- FF. “Required Inputs” means any raw materials or partially machined parts used in the research, development, manufacture, or production of any one or more of the L&S Components that TRW has researched, engineered, manufactured, marketed or sold at any time since January 1, 2014 if the substitution of such inputs with new materials or the source of supply of such inputs would:
1. Render any L&S Components non-conforming with, in breach of, or otherwise unacceptable under any Contract with any customer; or,
 2. Provide any customer with the right to examine, test, or otherwise qualify any L&S Components prior to accepting L&S Components made with substituted raw material inputs or partially machined parts, or made with such inputs from a substituted source of supply.
- GG. “Retained Tillsonburg Facility” means the Facility Assets located at 101 Spruce St., Tillsonburg, Ontario, N4G 4J1, Canada.
- HH. “St. Catharines Facility” means all of Respondents’ rights, title, and interests in the Facility Assets:
1. Located at the real property described in Exhibit 4 to this Decision and Order; and,
 2. Relating to the research, engineering, manufacture, marketing, and sale of L&S Components in North America and Europe by TRW.
- II. “Tillsonburg Facility” means all of Respondents’ rights, title, and interests in the Facility Assets:
1. Located at the real property described in Exhibit 5 to this Decision and Order; and,
 2. Relating to the research, engineering, manufacture, marketing, and sale of L&S Components in North America and Europe by TRW.

- JJ. “Tillsonburg Production Lines” means the equipment, machinery, and tools currently used in the production of control arms for the General Motors Silverado and Sierra platforms and the Ford Raptor platform, located at 101 Spruce St., Tillsonburg, Ontario, N4G 4J1, Canada.
- KK. “Trademarks” means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs, that identifies and distinguishes the source of the goods of one party from those of others.
- LL. “Transition Services Agreement” means an agreement that receives the prior approval of the Commission between one or both Respondents and the Acquirer of any of the assets divested under this Order to provide, at the option of the Acquirer and at no more than the Direct Costs of the Respondents, all services (or training for the Acquirer to provide services for itself) reasonably necessary to transfer administrative support services to the Acquirer of each of the assets divested under this Order. The services which may be the subject of a Transition Services Agreement include, but are not limited to, payroll, employee benefits, accounts receivable, accounts payable, utility services, heating and air conditioning services and systems, and other logistical and administrative support. The Transition Services Agreement shall provide that, at Acquirer’s request, Respondents shall file with the Commission any request for prior approval to extend the term of the Transition Services Agreement as provided by Paragraph II.B.1.b. of this Order.
- MM. “Transition Required Input Supply Agreement” means an agreement that receives the prior approval of the Commission between one or both Respondents and the Acquirer of any of the assets divested under this Order to provide, at the option of the Acquirer and at no more than the Direct Costs of the Respondents, sufficient quantities of Required Inputs to the Acquirer for the Acquirer to fully perform all Contracts for the sale of L&S Components to any Person (including, but not limited to, increasing the number of units of L&S Components sold to such Person to the Contract maximum quantities) by:
1. Assigning to the Acquirer some or all of Respondents’ rights to purchase or otherwise receive any Required Input sold or provided to Respondents under one or more existing supply agreements between Respondents and any Person;
 2. Selling to the Acquirer any Required Inputs; or,
 3. Otherwise supplying the Acquirer with any Required Input by commercially reasonable means.

The Transition Required Input Supply Agreement shall provide that, at Acquirer’s request, Respondents shall file with the Commission any request for prior approval to extend the term of the Transition Required Input Supply Agreement in accordance with the proviso to Paragraph II.B.3.b of this Order.

- NN. “Transition Trademark Assistance Agreement” means an agreement by which TRW grants the Acquirer, on a transitional basis and for a limited period of time mutually agreed upon with the Acquirer, a royalty-free, fully paid-up, non-exclusive, non-transferable right and license to use the TRW trademark as defined in such agreement to the extent such trademark appears on (a) signs, letterhead, advertisements, promotional

materials and other tangible assets included in the purchased assets, and (b) solely on L&S Components held, manufactured or sold by the Acquirer or its affiliates in connection with the operation of the TRW L&S Business.

- OO. “TRW Employee Benefits” means all employee benefits offered by Respondents or available to TRW Employees as of the ACCO Execution Date, including regularly scheduled or merit raises and bonuses, and regularly scheduled vesting of all pension benefits.
- PP. “TRW Employees” means the TRW Key Employees and the TRW Workforce Employees.
- QQ. “TRW Key Employees” means the Persons identified on Confidential Appendix B to this Order.
- RR. “TRW L&S Business” means all of Respondents’ legal and equitable rights, title, and interests in all tangible and intangible property of any kind used for or relating to the research, engineering, manufacture, marketing, and/or sale of L&S Components (a) at or from the TRW L&S Facilities and (b) TRW L&S Books and Records, TRW L&S Contracts, TRW L&S Intellectual Property, and TRW L&S Inventories.
Provided, however, the TRW L&S Assets shall not include the following:
1. The Excluded Intellectual Property; and,
 2. Any additional assets identified in the Divestiture Agreement as excluded from the divestiture, if the Acquirer does not want such assets and if the Commission approves the Divestiture Agreement without such assets.
- SS. “TRW L&S Books and Records” means all Books and Records relating to:
1. The research, engineering, manufacture, marketing, and sale of L&S Components by TRW; or,
 2. The TRW L&S Business.
- TT. “TRW L&S Contracts” means all Contracts relating to:
1. The research, engineering, manufacture, marketing, and sale of L&S Components by TRW; or,
 2. The TRW L&S Business.
- UU. “TRW L&S Facilities” means DAS, the Dusseldorf Design, Engineering & Sales Support, the Krefeld-Gellep Facility, the Portland Facility, the St. Catharines Facility, and the Tillsonburg Facility.
- VV. “TRW L&S Intellectual Property” means all Intellectual Property that is related to the research, engineering, manufacture, marketing, and sale of L&S Components by TRW. TRW L&S Intellectual Property includes, but is not limited to, the Patents listed on Confidential Appendix C to this Order.

- WW. “TRW L&S Inventories” means all Inventories in which the TRW L&S Business owns a legal or equitable interest and which the TRW L&S Business has not yet sold to customers, including TRW, as of the Divestiture Date.
- XX. “TRW Workforce Employees” means all part-time and full-time employees of the TRW L&S Business who are paid hourly or by salary, but excluding the TRW Key Employees.

II.

IT IS FURTHER ORDERED that:

- A. No later than six (6) months from the ACCO Execution Date, Respondents shall divest the TRW L&S Business, absolutely and in good faith and at no minimum price, to an Acquirer who receives the prior approval of the Commission and in a manner that receives the prior approval of the Commission.
- B. At the option of the Acquirer, and subject to the prior approval of the Commission, Respondents shall include in the Divestiture Agreement:
1. The Dusseldorf Lease;
 2. A Transition Services Agreement relating to the TRW L&S Business for a term of up to two (2) years, which agreement may be terminated at any time by the Acquirer without penalty upon commercially reasonable notice to Respondents;
 3. A Transition Required Input Supply Agreement:
 - a. For an initial term of up to one (1) year; and,
 - b. At the option of the Acquirer, for an additional term that is the greater of (i) one (1) year, or (ii) the time the Acquirer estimates in its reasonable judgment is required to examine, test or otherwise qualify L&S Components made with substituted raw material inputs or partially machined parts or made from such inputs from a substituted source of supply;

provided, however, that such additional term shall not exceed one (1) year without the prior approval of the Commission, which approval shall be sought no later than forty five (45) days prior to the expiration of the initial term; and,
 4. A Transition Trademark Assistance Agreement relating to the TRW L&S Business for a term not to exceed the term agreed between Respondents and the Acquirer.
- C. At the option of Respondents and subject to the prior approval of the Commission, Respondents and an Acquirer may enter into a License Back.

- D. Prior to the Divestiture Date:
1. Respondents shall secure at their sole expense:
 - a. Consents from all Persons that relate to or are necessary to divest the TRW L&S Business to the Acquirer and for the Acquirer to operate any tangible or intangible assets of the TRW L&S Business in a manner that will achieve the purposes of this Order; and,
 - b. Consents from all Persons necessary for the assignment or transfer to the Acquirer of all of the TRW L&S Contracts, other than contracts identified in Confidential Appendix D to this Order;

provided, however, Respondents shall not be required to secure the consent of any Governmental Agency relating to any permit, license, or right that Respondents have no legal right to divest or transfer to the Acquirer; and,

provided further, however, the failure of Respondents or the Acquirer to obtain any consents that relate to or are necessary to divest the TRW L&S Business shall not extend the date by which Respondents must divest the TRW L&S Business.
 2. Respondents shall use best efforts to assist the Acquirer to obtain the transfer from Respondents or issuance to the Acquirer of any permit, license, asset, or right that Respondents have no legal right to divest or transfer to the Acquirer.
- E. Respondents shall include in the Divestiture Agreement provisions that promote achieving the purposes of the Order allocating and providing for indemnification of any liabilities and direct or indirect damages and claims of customers or any other Persons (including, but not limited to, environmental liabilities, product liabilities, and product recalls) related to the operation of the TRW L&S Business prior to the Divestiture Date
- F. At its sole cost and expense, Respondents shall disassemble the Tillsonburg Production Lines from the Retained Tillsonburg Facility, and transport the Tillsonburg Production Lines to and reassemble the Tillsonburg Production Lines at the Tillsonburg Facility. The disassembly, transportation, and reassembly of the Tillsonburg Production Lines shall be conducted in the manner and completed upon the schedule outlined in Confidential Appendix E to this Order. Respondents' obligations under this Paragraph II.E. of this Order shall not be complete until the Tillsonburg Production Lines have produced commercially acceptable quantities of the L&S Components (including the receipt from customers of any approvals or product qualifications permitted or required under TRW L&S Contracts) as set forth on Confidential Appendix E to this Order. Respondents shall hold the Acquirer harmless from all liabilities and all direct or indirect damages and claims of customers or any other Persons arising from Respondents' failure to complete the disassembly, transportation and reassembly of the Tillsonburg Production Lines in the manner and upon the schedule outlined in Confidential Appendix E to this Order.
- G. Respondents shall comply with all terms of the Divestiture Agreement, and any breach by Respondents of any term of the Divestiture Agreement shall constitute a violation of this

Order. If any term of the Divestiture Agreement varies from the terms of this Order (“Order Term”), then to the extent that Respondents cannot fully comply with both terms, the Order Term shall determine Respondents’ obligations under this Order. Any modification of the Divestiture Agreement between the date the Commission approves the Divestiture Agreement and the Divestiture Date, without the prior approval of the Commission, or any failure by Respondents to meet any condition precedent to closing (whether waived or not), shall constitute a failure to comply with this Order. Notwithstanding any paragraph, section, or other provision of the Divestiture Agreement, any modification of the Divestiture Agreement, without the approval of the Commission, shall constitute a failure to comply with this Order, except as otherwise provided in Rule 2.41(f)(5) of the Commission’s Rules of Practice and Procedure, 16 C.F.R. § 2.41(f)(5).

- H. The purpose of the divestiture is to ensure the continuation of the TRW L&S Business as an ongoing, viable and effective competitor in the North American market for the research, engineering, manufacture, marketing, and sale of tie rods for heavy vehicles, and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission’s Complaint.

III.

IT IS FURTHER ORDERED that:

- A. Respondents shall cooperate with and assist the Acquirer of the TRW L&S Business to evaluate independently and retain the TRW Employees, such cooperation to include at least the following:
1. Not later than forty five (45) days before the Divestiture Date, Respondents shall, to the extent permitted by law: (i) provide to the proposed Acquirer, at the Acquirer’s option, either access to and an opportunity to copy personnel files of all TRW Employees; or, a list of all TRW Employees by employee number, seniority date, original hire date, job title, work location, and material terms of employment including current salary, accrued vacation pay and entitlement to commissions bonus (whether monetary or otherwise), and the status and classification (as “salaried,” “direct,” or “indirect”); and, (ii) allow the proposed Acquirer a reasonable opportunity to interview any TRW Employees;
 2. Not later than thirty (30) days before the Divestiture Date, to the extent permitted by applicable law, Respondents shall provide an opportunity for the Acquirer: (i) to meet personally, and outside the presence or hearing of any employee or agent of Respondents, with any of the TRW Employees; and (ii) to make offers of employment to any of the TRW Employees;
 3. Respondents shall: (i) not directly or indirectly interfere with the Acquirer’s offer of employment to any one or more of the TRW Employees, directly or indirectly attempt to persuade any one or more of the TRW Employees to decline any offer of employment from the Acquirer, or offer any incentive to any TRW Employees

to decline employment with the Acquirer; (ii) irrevocably waive any legal or equitable right to deter any TRW Employees from accepting employment with the Acquirer, including, but not limited to, any non-compete or confidentiality provisions of employment or other contracts with Respondents that directly or indirectly relate to the TRW L&S Business; and (iii) either continue to provide the same TRW Employee Benefits or provide Equivalent Employee Benefits until the Divestiture Date; and,

4. Respondents shall cooperate with the Acquirer to provide reasonable financial incentives as set forth in the Hold Separate Order to encourage TRW Key Employees to continue in his or her position with the TRW L&S Business until the Divestiture Date.

- B. For a period of two (2) years from the Divestiture Date, Respondents shall not, directly or indirectly, solicit, negotiate, hire, or enter into any arrangement for the services of any TRW Key Employee who has accepted an offer of employment with, or who is employed by, the Acquirer.

Provided, however, a violation of this provision will not occur if:

1. The TRW Key Employee's employment has been terminated by the Acquirer;
2. Respondents advertise for employees in newspapers, trade publications, or other media not targeted specifically at any one or more of the employees of the Acquirer; or,
3. Respondents hire a TRW Key Employee who has applied for employment with Respondents, provided that such application was not solicited or induced in violation of this Order.

- C. For a period of one (1) year from the Divestiture Date, Respondents shall not, directly or indirectly, solicit or induce, or attempt to solicit or induce, any TRW Workforce Employee who has accepted an offer of employment with, 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 TRW Workforce Employee's employment has been terminated by the Acquirer;
2. Respondents advertise for employees in newspapers, trade publications, or other media not targeted specifically at any one or more of the employees of the Acquirer; or,
3. Respondents hire a TRW Workforce Employee who has applied for employment with Respondents, provided that such application was not solicited or induced in violation of this Order.

IV.

IT IS FURTHER ORDERED that:

- A. Respondents shall not:
 - 1. Provide, disclose, or otherwise make available any Material Confidential Information to any Person except as required or permitted by this Order or the Hold Separate Order; or
 - 2. Use any Material Confidential Information for any reason or purpose other than as required or permitted by this Order or the Hold Separate Order.
- B. Respondents shall devise and implement measures to protect against the storage, distribution, and use of Material Confidential Information that is not permitted by this Order or the Hold Separate Order. These measures shall include, but not be limited to, restrictions placed on access by Persons to information available or stored on any of Respondents' computers or computer networks. Except as provided by Paragraph IV.D. of this Order and the Hold Separate Order, Respondents shall redact all Material Confidential Information from its Book and Records not divested to the Acquirer.
- C. Respondents no less than annually shall provide written or electronic instructions to any and all of its officers, directors, employees, or agents who have custody or control of any Material Confidential Information concerning the limitations placed by this Order on the distribution and use of Material Confidential Information. Respondents shall require such officers to acknowledge in writing or electronically their receipt and understanding of these written or electronic instructions. Respondents shall maintain custody of these written or electronic instructions and acknowledgments for inspection upon request by the Commission.
- D. Notwithstanding Paragraph IV.A. of this Order and subject to the Hold Separate Order, Respondents may use Material Confidential Information:
 - 1. For the purpose of performing Respondents' obligations under this Order, the Hold Separate Order, or the Divestiture Agreements;
 - 2. To ensure compliance with legal and regulatory requirements including, but not limited to:
 - a. Retaining a copy of Material Confidential Information for the sole purpose of complying with any applicable law, regulations, and other legal obligations; and,
 - b. Requirements of the rules and regulations of the Securities and Exchange Commission and of any stock on any exchange, the performance of necessary audits and the maintenance of effective internal controls and procedures for required disclosures of financial information;
 - 3. To provide accounting, information technology, and credit-underwriting services;

4. To provide legal services associated with actual or potential litigation and transactions;
5. To monitor and ensure compliance with financial, tax reporting, governmental environmental, health, and safety requirements; or,
6. As otherwise provided by this Order and the Hold Separate.

V.

IT IS FURTHER ORDERED that:

- A. The Commission appoints Competition Rx as Monitor and approves the Monitor Agreement between Competition Rx and Respondents, attached as Appendix F.
- B. Respondents shall facilitate the ability of the Monitor to comply with the duties and obligations set forth in this Order, and shall take no action that interferes with or hinders the Monitor's authority, rights or responsibilities as set forth in this Order or any agreement between the Monitor and Respondents.
- C. The Monitor's duties and responsibilities shall include the following, among other responsibilities that may be required:
 1. The Monitor shall act in a fiduciary capacity for the benefit of the Commission;
 2. The Monitor shall serve until the earlier of the date this Order terminates by its terms and such time as Respondents have complied fully with all of their obligations under the Divestiture Agreement;
 3. The Monitor shall have the power and authority to Monitor Respondents' compliance with Paragraphs II. through IV. of the Order and with the Divestiture Agreement;
 4. The Monitor shall have power and authority to review and audit, at the Respondents' sole cost and expense, the books and records of Respondents to determine whether Respondents have complied fully with their obligations under the Order and with the Divestiture Agreement;
 5. The Monitor shall exercise such power and authority and carry out his or her duties and responsibilities in a manner consistent with the purposes of the Order and in consultation with the Commission and its staff;
 6. The Monitor shall review all reports submitted to the Commission by Respondents pursuant to the Order and the Consent Agreement, and within thirty (30) days from the date the Monitor receives a report, and upon request of the Commission or its staff, report in writing to the Commission concerning performance by Respondents of their obligations under Paragraphs II. through IV. of this Order and with the Divestiture Agreement; and,

7. During the term of any Dusseldorf Lease, Transition Services Agreement, Transition Required Input Supply Agreement or Transition Trademark Assistance Agreement, the Monitor shall provide the Commission with written reports at least every sixty (60) days sufficient to determine if Respondents are complying fully with the terms of any Dusseldorf Lease, Transition Services Agreement, Transition Required Input Supply Agreement or Transition Trademark Assistance Agreement, and with the terms of this Order (including the Divestiture Agreement). Thereafter, the Monitor shall provide periodic written reports to the Commission upon a schedule (but at least annually) that is sufficient to provide the Commission with timely information to determine if Respondents have complied and are complying with their obligations under this Order (including the Divestiture Agreements). In addition, the Monitor shall provide such additional written reports as Commission staff may request that reasonably are related to determining if Respondents have complied and are complying with their obligations under this Order (including the Divestiture Agreements). The Monitor shall not provide to Respondents, and Respondents shall not be entitled to receive, copies of these reports.
- D. Respondents shall grant and transfer to the Monitor, and such Monitor shall have, all rights, powers, and authority necessary to carry out the Monitor's duties and responsibilities, including, but not limited to, the following:
1. Respondents shall cooperate with any reasonable request of the Monitor and shall take no action to interfere with or impede the Monitor's ability to monitor Respondents' compliance with Paragraphs II. through IV. of this Order and with the Divestiture Agreement;
 2. Subject to any demonstrated legally recognized privilege, Respondents shall provide the Monitor full and complete access to Respondents' personnel, books, documents, records kept in the ordinary course of business, facilities and technical information, and such other relevant information as the Monitor may reasonably request, related to Respondents' compliance with its obligations under Paragraphs II. through IV. of this Order and with the Divestiture Agreement;
 3. Within five (5) calendar days of submitting a report required by this Order or the Consent Agreement to the Commission, Respondents shall deliver a copy of such report to the Monitor;
 4. Except as otherwise set forth in this Order, the Monitor shall serve, without bond or other security, at the expense of Respondents, on such reasonable and customary terms and conditions to which the Monitor and Respondents agree and that the Commission approves;
 5. The Monitor shall have authority to employ, at the expense of Respondents, such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities;

6. Respondents shall indemnify the Monitor and hold the Monitor harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Monitor's duties, including all reasonable fees of counsel and other reasonable expenses incurred in connection with the preparations for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from gross negligence, willful or wanton acts, or bad faith by the Monitor; and,
 7. Respondents may require the Monitor and each of the Monitor's consultants, accountants, attorneys and other representatives and assistants to sign a customary confidentiality agreement.
Provided, however, that such agreement shall not restrict the Monitor from providing any information to the Commission or its staff, or require the Monitor to report to Respondents the substance of communications to or from the Commission, its staff, or the Acquirer.
- E. Respondents shall comply with all terms of the Monitor Agreement, and any breach by Respondents of any term of the Monitor Agreement shall constitute a violation of this Order. Notwithstanding any paragraph, section, or other provision of the Monitor Agreement, any modification of the Monitor Agreement, without the prior approval of the Commission, shall constitute a failure to comply with this Order.
 - F. The Commission may, among other things, require the Monitor and each of the Monitor's consultants, accountants, attorneys and other representatives and assistants to sign an appropriate confidentiality agreement related to Commission materials and information received in connection with the performance of the Monitor's duties.
 - G. If the Commission determines that the Monitor has ceased to act or failed to act diligently, the Commission may appoint a substitute Monitor. The Commission shall select the substitute Monitor, 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 any proposed substitute Monitor within ten (10) days after notice by the staff of the Commission to Respondents of the identity of any proposed substitute Monitor, Respondents shall be deemed to have consented to the selection of the proposed substitute Monitor. Not later than ten (10) days after the appointment of the Monitor, Respondents shall execute an agreement that, subject to the prior approval of the Commission, confers on the Monitor all the rights and powers necessary to permit the Monitor to monitor Respondents' compliance with the relevant requirements of this Order and the Divestiture Agreement in a manner consistent with the purpose of this Order. If a substitute Monitor is appointed, Respondents shall consent to the terms and conditions regarding the powers, duties, authorities, and responsibilities of the Monitor as set forth in this Paragraph.
 - H. The Commission may on its own initiative, or at the request of the Monitor, issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of the Order.

- I. A Monitor appointed pursuant to this Order may be, but need not be, the same Person appointed as the Divestiture Trustee pursuant to the relevant provisions of this Order and the same Person appointed as Hold Separate Monitor under the Hold Separate Order.

VI.

IT IS FURTHER ORDERED that:

- A. If Respondents have not fully complied with the obligations of Paragraph II. of this Order, whether or not all Government Agency consents have been obtained, the Commission may appoint a Divestiture Trustee to divest the TRW L&S Business, enter into a Transition Services Agreement and Transition Required Input Supply Agreement, and perform Respondents' other obligations in a manner that satisfies the requirements of this Order. If Respondents have not fully complied with the obligations imposed by Paragraph II. of this Order, the Divestiture Trustee shall divest the TRW L&S Business to an Acquirer that receives the prior approval of the Commission and in a manner that receives the prior approval of the Commission. In the event that the Commission or the Attorney General brings an action pursuant to Section 5(l) of the Federal Trade Commission Act, 15 U.S.C. § 45(l), or any other statute enforced by the Commission, Respondents shall consent to the appointment of a Divestiture Trustee in such action to divest the required assets. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under this Paragraph VI.A. shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including one or more court-appointed Divestiture Trustees, pursuant to Section 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Respondents to comply with this Order.
- B. The Commission may select a Divestiture Trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld. The Commission may appoint a Divestiture Trustee to divest the TRW L&S Business and perform Respondents' other obligations in a manner that satisfies the requirements of Paragraph II. of this Order. Any Divestiture Trustee shall be a person with experience and expertise in acquisitions and divestitures. If Respondents have not opposed, in writing, and stated in writing their reasons for opposing, the selection of any proposed Divestiture Trustee within ten (10) days after notice by the staff of the Commission to Respondents of the identity of any proposed Divestiture Trustee, Respondents shall be deemed to have consented to the selection of the proposed Divestiture Trustee.
 1. Not later than ten (10) days after the appointment of a Divestiture Trustee, Respondents shall execute a trust agreement for any divestitures required by Paragraph II. of this Order that, subject to the prior approval of the Commission, transfers to the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to effectuate the divestitures required by, and satisfy the additional obligations imposed by, Paragraph II. of this Order. Any failure by

Respondents to comply with a trust agreement approved by the Commission shall be a violation of this Order.

2. If a Divestiture Trustee is appointed by the Commission or a court pursuant to this Paragraph, Respondents shall consent to the following terms and conditions regarding the Divestiture Trustee's powers, duties, authority, and responsibilities:
 - a. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to effectuate the divestitures required by, and satisfy the additional obligations imposed by, this Order.
 - b. The Divestiture Trustee shall have one (1) year after the date the Commission approves the trust agreement described herein to accomplish the divestiture required by Paragraph II. of this Order, which shall be subject to the prior approval of the Commission. If, however, at the end of the one (1) year period, the Divestiture Trustee has submitted a plan to satisfy the obligations of Paragraph II. of this Order, or believes that such obligation can be achieved within a reasonable time, the period may be extended by the Commission, or, in the case of a court-appointed Divestiture Trustee, by the court; *provided, however*, that the Commission may extend the period only two (2) times.
 - c. Subject to any demonstrated legally recognized privilege, any Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities related to the relevant assets that are required to be divested by this Order and to any other relevant information, as the Divestiture Trustee may request. Respondents shall develop such financial or other information as any Divestiture Trustee may request and shall cooperate with the Divestiture Trustee. Respondents shall take no action to interfere with or impede any Divestiture Trustee's accomplishment of the divestiture. Any delays caused by Respondents shall extend the time under this Paragraph VI. for a time period equal to the delay, as determined by the Commission or, for a court-appointed Divestiture Trustee, by the court.
 - d. Any Divestiture Trustee shall use commercially reasonable efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondents' absolute and unconditional obligation to divest expeditiously and at no minimum price. The divestiture shall be made in the manner that receives the prior approval of the Commission and to an Acquirer that receives the prior approval of the Commission as required by this Order; *provided, however*, if any Divestiture Trustee receives bona fide offers for any asset to be divested from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the Divestiture Trustee shall divest to the acquiring entity selected by Respondents from

among those approved by the Commission; *provided further, however*, that Respondents shall select such entity within five (5) days after receiving notification of the Commission's approval.

- e. Any Divestiture Trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. Any Divestiture Trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the Divestiture Trustee's duties and responsibilities. Any Divestiture Trustee shall account for all monies derived from the divestitures and all expenses incurred. After approval by the Commission of the account of the Divestiture Trustee, including fees for the Divestiture Trustee's services, all remaining monies shall be paid at the direction of Respondents, and the Divestiture Trustee's power shall be terminated. The compensation of any Divestiture Trustee shall be based at least in significant part on a commission arrangement contingent on the divestiture of all of the relevant assets that are required to be divested by this Order.
- f. Respondents shall indemnify any Divestiture Trustee and hold the Divestiture Trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Divestiture Trustee'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 losses, claims, damages, liabilities, or expenses result from gross negligence, malfeasance, willful or wanton acts, or bad faith by the Divestiture Trustee.
- g. The Divestiture Trustee shall have no obligation or authority to operate or maintain the relevant assets required to be divested by this Order.
- h. The Divestiture Trustee shall report in writing to Respondents and to the Commission every thirty (30) days concerning the Divestiture Trustee's efforts to accomplish the divestitures.
- i. Respondents may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement; *provided, however*, such agreement shall not restrict the Divestiture Trustee from providing any information to the Commission.

- C. If the Commission determines that the Divestiture Trustee has ceased to act or failed to act diligently, the Commission may appoint a substitute Divestiture Trustee in the same manner as provided in this Paragraph VI.
- D. The Commission or, in the case of a court-appointed Divestiture Trustee, the court, may on its own initiative or at the request of any Divestiture Trustee, issue such additional orders or directions as may be necessary or appropriate to accomplish the divestitures required by this Order.
- E. The Divestiture Trustee appointed pursuant to this Paragraph VI. may be the same person appointed as Hold Separate Trustee pursuant to the relevant provisions of the Hold Separate, and may be the same Person as the Monitor appointed under this Order.

VII.

IT IS FURTHER ORDERED that:

- A. Within thirty (30) days after the date this Order is issued, and every thirty (30) days thereafter until the Divestiture Date of the divestiture required by Paragraph II. of this Order, Respondents shall submit to the Commission (and a complete copy to the Monitor appointed under this Order, and the Hold Separate Monitor appointed under the Hold Separate Order) a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this Order. For the period covered by each report, the report shall include, but not be limited to (among other things that are required from time to time), a full description of the efforts being made to comply with Paragraph II. of this Order, including a description of all substantive contacts or negotiations for the divestiture and the identity and contact information of all parties contacted. Respondents shall include in the reports copies of all material written communications to and from such parties, all internal memoranda reviewing or evaluating possible acquirers or divestiture proposals, a copy of the written instructions and acknowledgments concerning Material Confidential Information required by Paragraph IV. of this Order, and all reports and recommendations concerning completing the obligations.
- B. Within thirty (30) days after the date that the initial term of the first of any Transition Services Agreement or Transition Required Input Supply Agreement commences, and every sixty (60) days thereafter until the date upon which the last of any Transition Services Agreement or Transition Required Input Supply Agreement terminates, Respondents shall submit to the Commission (and a complete copy to the Monitor appointed under this Order) a verified written report. Each verified written report under this paragraph VII.B. shall set forth in detail the manner and form in which Respondents intend to comply, are complying, and have complied with any Transition Services Agreement or Transition Required Input Supply Agreement. For the period covered by each report, the report shall include, but not be limited to (among other things that are required from time to time), the name and contact information for each Person that

maintains or claims (regardless of whether Respondents agree or disagree with such Person, and regardless whether a judicial or arbitration action has been threatened or commenced) that one or more Respondents have failed to comply fully with either any Transition Services Agreement or Transition Required Input Supply Agreement, briefly describe the Person's claim, and provide copies of any written communications between Respondents and the Person concerning the claim.

- C. On the first anniversary of the Order Date, and thereafter on each subsequent anniversary until Respondents have satisfied in full all of their obligations under Paragraph II of this Order and all of the Divestiture Agreement (including any Transition Services Agreement and Transition Required Input Supply Agreement), Respondents shall submit to the Commission a verified written report setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with this Order. For the period covered by each such report, Respondents shall state the name and contact information for each Person that maintains or claims (regardless of whether Respondents agree or disagree with such Person, and regardless whether a judicial or arbitration action has been threatened or commenced) that one or more Respondents have failed to comply fully with the Order (including any Divestiture Agreement made a part thereof), briefly describe the Person's claim, and provide copies of any written communications between Respondents and the Person concerning the claim.

VIII.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to:

- A. any proposed dissolution of Respondents;
- B. any proposed acquisition, merger, or consolidation of Respondents; or
- C. any other change in the Respondents, including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of the Order.

IX.

IT IS FURTHER ORDERED that for purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request and upon five (5) days' notice to Respondents made to either Respondent's principal United States offices, registered office of its United States subsidiary, or its headquarters address, Respondents shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business 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 related to compliance with this Order, which copying services shall be provided by Respondents at the request of the authorized representative(s) of the Commission and at the expense of the Respondents; and
- B. To interview officers, directors, or employees of Respondents, who may have counsel present, regarding such matters.

X.

IT IS FURTHER ORDERED that this Order shall terminate ten (10) years after the Order Date.

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED:

CONFIDENTIAL APPENDICES A-E
[Redacted From the Public Record Version, But Incorporated By Reference]

APPENDIX F
MONITOR AGREEMENT
[Public Record Version]

**FTC MONITOR AGREEMENT
BETWEEN
ZF FRIEDRICHSHAFEN AG,
TRW AUTOMOTIVE HOLDINGS CORP.
AND
COMPETITIONRX LTD.**

21 April 2015

EPJ

FTC MONITOR AGREEMENT

BETWEEN:

1. **ZF Friedrichshafen AG** (hereafter “**ZF**”), a company organized under the laws of Germany, which has its registered seat at Graf-von-Soden-Platz 1, 88046 Friedrichshafen, Germany,
2. **TRW Automotive Holdings Corp.** (hereafter “**TRW**”), a public 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 12001 Tech Center Drive, Livonia, MI 48150, United States of America,

ZF and TRW are hereafter referred to as the “**Respondents**”.

AND:

3. **CompetitionRx Ltd**, a company organized under the laws of the United Kingdom, which has its registered offices at 35 Ballards Lane, London, N3 1XW, United Kingdom, represented by Thomas Hoehn, (hereafter the “**Monitor**”).

WHEREAS:

The Federal Trade Commission (“**FTC**”) has initiated an investigation of the acquisition by ZF of TRW. ZF and TRW have executed an Agreement Containing Consent Orders (“**Consent Agreement**”) with ZF and TRW consenting to the issuance of an Order to Hold Separate and Maintain Assets (the “**Hold Separate Order**”), and a Decision and Order (the “**D&O**,” and together with the Hold Separate Order, the “**Orders**”). The Orders contain, inter alia, the obligations of ZF and TRW to divest the TRW L&S Business (as defined in the Orders) to an Acquirer, who receives the prior approval of the FTC and in a manner that receives the prior approval of the FTC, and to hold separate and maintain the TRW L&S Business pending the divestiture.

In the Orders, the FTC will appoint the Monitor as Monitor (as defined in the D&O) and Hold Separate Monitor (as defined in the Hold Separate Order).



IT HAS BEEN AGREED AS FOLLOWS:

Section A: Engagement of Monitor

1. ZF hereby engages the Monitor in his capacity as the Hold Separate Monitor effective when the Hold Separate Order becomes final, and as the Monitor under the D&O when the D&O becomes final.
2. The Monitor hereby accepts the said engagement as Hold Separate Monitor and Monitor.

Section B: Duties, Rights, and Obligations of the Hold Separate Monitor and Respondents under the Hold Separate Order

1. The Hold Separate Monitor shall:
 - a. monitor the organization and operations of the Hold Separate Business;
 - b. supervise the management of the Hold Separate Business by TRW Key Employees;
 - c. maintain the independence of the Hold Separate Business; and
 - d. monitor Respondents' compliance with their obligations pursuant to the Orders.
2. Respondents hereby transfer to and confer upon the Hold Separate Monitor all rights, powers and authority necessary to permit the Hold Separate Monitor to perform his duties and responsibilities pursuant to the Hold Separate Order and in a manner consistent with the purposes of the Orders and in consultation with the Commission staff.
3. The Hold Separate Monitor shall carry out the Hold Separate Monitor's duties and responsibilities as outlined in the Hold Separate Order, including submitting periodic reports to the Commission concerning the efforts to accomplish the purposes of the Hold Separate Order and Respondents' compliance with its obligations under the Orders.

Section C: Duties, Rights, and Obligations of the Monitor and Respondents under the D&O

1. Respondents shall facilitate the ability of the Monitor to comply with the duties and obligations set forth in the D&O, and shall take no action that interferes with or hinders the Monitor's authority, rights or responsibilities as set forth in the D&O or any agreement between the Monitor and Respondents.
2. The Monitor's duties and responsibilities shall include the following, among other responsibilities that may be required:
 - a. The Monitor shall act in a fiduciary capacity for the benefit of the Commission;
 - b. The Monitor shall have the power and authority to monitor Respondents' compliance with Paragraphs II. through IV. of the Order and with the Divestiture Agreement, including, but not limited to, any Transition Services Agreement or Transition Required Input Supply Agreement;
 - c. The Monitor shall exercise such power and authority and carry out his or her duties and responsibilities in a manner consistent with the purposes of the Order and in consultation with the Commission and its staff;



- d. The Monitor shall review all reports submitted to the Commission by Respondents pursuant to the Order and the Consent Agreement, and within thirty (30) days from the date the Monitor receives a report, and upon request of the Commission or its staff, report in writing to the Commission concerning performance by Respondents of their obligations under Paragraphs II. through IV. of this Order and with the Divestiture Agreement; and,
 - e. During the term of any Transition Services Agreement or Transition Required Input Supply Agreement, the Monitor shall provide the Commission with written reports at least every sixty (60) days sufficient to determine if Respondents are complying fully with the terms of any Transition Services Agreement and Transition Required Input Supply Agreement, and with the terms of this Order (including the Divestiture Agreement). Thereafter, the Monitor shall provide periodic written reports to the Commission upon a schedule (but at least annually) that is sufficient to provide the Commission with timely information to determine if Respondents have complied and are complying with their obligations under this Order (including the Divestiture Agreements). In addition, the Monitor shall provide such additional written reports as Commission staff may request that reasonably are related to determining if Respondents have complied and are complying with their obligations under this Order (including the Divestiture Agreements). The Monitor shall not provide to Respondents, and Respondents shall not be entitled to receive, copies of these reports.
3. Respondents hereby grant and transfer to the Monitor, and such Monitor shall have, all rights, powers, and authority necessary to carry out the Monitor's duties and responsibilities, including, but not limited to, the following:
- a. Respondents shall cooperate with any reasonable request of the Monitor and shall take no action to interfere with or impede the Monitor's ability to monitor Respondents' compliance with Paragraphs II. through IV. of this Order and with the Divestiture Agreement;
 - b. Within five (5) calendar days of submitting a report required by this Order or the Consent Agreement to the Commission, Respondents shall deliver a copy of such report to the Monitor;

Section D: General Duties, Rights, and Obligations of the Monitor and Respondents under the Orders

1. Subject to applicable laws and regulations, the Monitor shall have full and complete access to the personnel, books, records, document and facilities of the TRW L&S Business, and to any other relevant information as the 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 TRW L&S Business. Respondents shall develop such financial or other information as the Monitor may reasonably request and shall cooperate with the Monitor. The Monitor shall give Respondents reasonable notice of any request for such access or such information. The Monitor shall attempt to schedule any access or requests for information in such a manner as will not unreasonably interfere with Respondents' operations. At the request of the Monitor, Respondents shall promptly arrange meetings and discussions, including tours of relevant facilities, at reasonable times and locations between the Monitor and employees of Respondents who have knowledge relevant to the proper discharge of its duties and responsibilities under the Orders.

2. The Monitor shall have the authority to employ, at the expense of Respondents, such consultants, accountants, attorneys and other representatives and assistants (the “**Monitor’s Consultants**”) as are reasonably necessary to carry out the Monitor's duties and responsibilities.

Section E: Confidentiality

1. The Monitor shall:
 - a. maintain the confidentiality of all Confidential Business Information, and any other information provided to the Monitor by Respondents, any Prospective Acquirer, any Acquirer, any Commission approved Acquirer, the Commission, or any employee, representative or advisor thereof, and shall use such information only for the purpose of performing his duties and responsibilities as Monitor and not for any other purpose, including, but not limited to, any other business or personal purpose. The Monitor may disclose Confidential Business Information only to:
 - i. persons engaged, employed by, or working with the Monitor;
 - ii. any Acquirer or Commission-approved Acquirer to the extent such information is of a non-privileged nature; and
 - iii. persons employed at the Commission who are working on this matter.
 - b. require any Monitor’s Consultant to execute a confidentiality agreement that requires such persons to treat confidential information, including any Confidential Business Information, with the same standards of care and obligations of confidentiality to which the Monitor must adhere under this Agreement, provided, however, that such confidentiality agreement shall not restrict the Monitor from providing any information to the Commission or its staff. The Monitor shall maintain a record of persons engaged by the Monitor to whom Confidential Business Information has been disclosed;
 - c. maintain the confidentiality after the termination of this Agreement of all other aspects of the performance of the Monitor’s duties and responsibilities under this Agreement and shall not disclose any confidential or proprietary information relating thereto; and
 - d. upon termination of the Monitor’s duties under this Agreement, the Monitor shall consult with the Commission’s staff regarding disposition of any written and electronic materials (including materials that Respondents provided to the Monitor) in the possession or control of the Monitor that relate to the Monitor’s duties, and the Monitor shall dispose of such materials, which may include sending such materials to the Commission’s staff, as directed by the staff. In response to a request by Respondents to return or destroy materials that Respondents provided to the Monitor, the Monitor shall inform the Commission’s staff of such request and, if the Commission’s staff do not object, shall comply with the Respondents’ request. Nothing herein shall abrogate the Monitor’s duty of confidentiality, which includes an obligation not to disclose any non-public information obtained while acting as a Monitor, for ten (10) years after termination of this Agreement.



Section F: Remuneration and Indemnification

1. Respondents shall pay the Monitor in accordance with the Fee Schedule attached hereto as Confidential Exhibit A for all time spent in the performance of the Monitor's duties and responsibilities and in the performance of the Monitor's duties and responsibilities, and all reasonable and necessary travel time. In addition, Respondents will pay the Monitor in accordance with the attached Fee Schedule (i) all out-of-pocket expenses incurred by the Monitor in the performance of the Hold Separate Monitor's and Monitor's duties, including any travel, and (ii) all fees and disbursements incurred by such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Hold Separate Monitor's and Monitor's duties.
2. Respondents hereby confirm their obligations to indemnify the Monitor acting as the Hold Separate Monitor and Monitor, and any Monitor's Consultant retained by the Monitor in the fulfillment of the Monitor's duties and responsibilities and hold the Monitor and the Monitor's Consultants harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Monitor's duties hereunder, 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 losses, claims, damages, liabilities, or expenses result from malfeasance, gross negligence, willful or wanton acts, or bad faith by the Monitor.

Section G: General Provisions

1. This FTC Monitor Agreement ("**Agreement**") may not be modified without the prior approval of the Commission
2. In the performance of its functions and duties as Hold Separate Monitor and Monitor, the Monitor shall exercise the standard of care and diligence that would be expected of a reasonable person in the conduct of his or her own business affairs.
3. In the event that a disagreement or dispute should arise between Respondents and the Monitor concerning Respondents' obligations under the Orders, and in the event that such disagreement cannot be resolved by the parties, either party may seek the assistance of the Commission's Compliance Division to resolve this issue.
4. In the event that either Respondents or the Monitor determine that there is a possible conflict between the Monitor's duties, responsibilities, or obligations under the Orders and under the EC Commitments or the EC Mandate, the Monitor or Respondents promptly shall notify the Commission and the European Commission in writing and consult with them about the possible conflict.
5. This Agreement shall terminate the earlier of
 - a. thirty (30) days following the termination date set forth in the applicable Order;
 - b. Respondents' receipt of written notice from the Commission that the Commission has determined that Monitor has ceased to act or failed to act diligently, or is unwilling or unable to continue to serve as Monitor;
 - c. with at least thirty (30) days' advance notice to be provided by Monitor to Respondents and to the Commission, upon resignation of the Monitor; or
 - d. when Respondents' last obligation under the Orders and the Divestiture Agreement that pertain to the Monitor's service have been fully performed; provided, however, that the Commission may require that Respondents extend

this Agreement or enter into an additional agreement with Monitor as may be necessary or appropriate to accomplish the purposes of the Orders.

6. If the Monitor becomes aware during the term of this Agreement that he has or may have a conflict of interest that may affect or could have the appearance of affecting the performance of any of its duties or responsibilities under this Agreement, the Monitor shall promptly inform Respondents and the Commission of any such conflict.
7. The Monitor shall provide written notice to Respondents and to the Commission if the Monitor:
 - a. enters into any written or oral Material Agreement with any of the Respondents, any Person named as a Proposed Acquirer in any application filed by the Respondents with the Commission for the approval of the divestiture of the TRW L&S Business, or any Person approved by the Commission as the Acquirer of the TRW L&S Business; or
 - b. acquires a Material Financial Interest in any of the Respondents, any Person named as a Proposed Acquirer in any application filed by the Respondents with the Commission for the approval of the divestiture of the TRW L&S Business, or any Person approved by the Commission as the Acquirer of the TRW L&S Business.
8. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York (without giving effect to choice of law principles thereof).
9. All notices under this FTC Monitor Agreement shall be provided as follows:
 - a. To the Commission
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
United States of America
and
By email to: bccompliance@ftc.gov
 - b. To the European Commission
European Commission
DG Competition
Unit B-3: Mergers/Energy and Environment
MADO 24/043
Place Madou 1
B-1049 Brussels/Belgium
and
By email to: Henri.PIFFAUT@ec.europa.eu
 - c. To the Monitor
CompetitionRx Ltd
Attn: Thomas Hoehn
47 Dorset Street
London, W1U 7ND
United Kingdom
and
By email to: thomas.hoehn@competitionrx.com

d. To Respondent TRW
TRW Automotive Holdings Corp.
Attn: Jeff Cooper
12001 Tech Center Drive
Livonia, MI 48150,
United States of America

and

By email to: Jeff.Cooper@trw.com

e. To Respondent ZF
ZF Friedrichshafen AG
Department FM
Attn: Dr. Martin Grabolle
Graf-von-Soden-Platz 1
88046 Friedrichshafen
Germany

and

By email to: martin.grabolle@zf.com

Section H: Definitions

As used in this Agreement, the following definitions, and all other definitions used in the Orders, shall apply:

1. **“EC Commitments”** means the Commitments entered by ZF to the EU Commission on February 19, 2015.
2. **“EC Mandate”** means the EU Trustee Mandate executed between ZF and the Monitor on April 9, 2015.
3. **“Material Agreements”** means any agreement or contract pursuant to which the Monitor
 - a. has or accepts any employment by or is or accepts any appointment as Member of the Board or member of other management bodies of the Respondents other than appointments pertaining to the establishment and performance of the EC Mandate;
 - b. has or accepts any assignments or other business relationships with or financial interests in the Respondents that might lead to a Conflict of Interest;
or
 - c. has or accepts any other appointments, assignments or other business relationships that may, in view of the circumstances of the particular case, be regarded as impairing the Monitor’s objectivity and independence in discharging its duties under the Agreement.

4. "Material Financial Interest" means any assignment or other business relationship between the Monitor and the Respondents or investments by the Monitor in the stock or securities of the Respondents if such assignments, business relationships or investments are outside the normal course of business and are material to the Monitor or the Respondents.

April 21, 2015

On behalf of ZF Friedrichshafen AG

By: DIETER ECKHARDT
Title: VP M&A / COOPERATIONS

ppa. 

By: Young Sunwoo
Title: So. Manager M&A / COOPERATIONS in.



On behalf of TRW Automotive Holdings Corp.

By: 
Title: EXECUTIVE VICE PRESIDENT & CFO

On behalf of CompetitionRx Ltd.

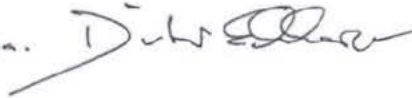
By:
Title:

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April 21, 2015

On behalf of **ZF Friedrichshafen AG**

By: DIETER ECKHARDT
Title: VP M&A / COOPERATIONS

ppn. 

By: Young Sunwoo
Title: So. Manager M&A / Cooperations

id. 

On behalf of **TRW Automotive Holdings Corp.**

By:
Title:

On behalf of **CompetitionRx Ltd.**

By: THOMAS HOBTAN
Title: DIRECTOR

