

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

COMMISSIONERS: **Joseph J. Simons, Chairman**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

<p>In the Matter of</p> <p>Össur Hf., a corporation;</p> <p>Össur Americas Holdings, Inc., a corporation;</p> <p>and</p> <p>College Park Industries, Inc., a corporation.</p>	<p>)</p>	<p>DECISION AND ORDER DOCKET NO. C-4712</p>
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DECISION

The Federal Trade Commission initiated an investigation of the proposed acquisition by Respondent Össur Americas Holdings Inc., controlled by Respondent Össur Hf, of the voting securities of Respondent College Park Industries, Inc., collectively “Respondents.” The Commission’s Bureau of Competition prepared and furnished to Respondents the Draft Complaint, which it proposed to present to the Commission for its consideration. If issued by the Commission, the Draft Complaint 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.

Respondents and the Bureau of Competition executed an Agreement Containing Consent Orders (“Consent Agreement”) containing (1) an admission by Respondents of all the jurisdictional facts set forth in the Draft Complaint, (2) a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in the Draft Complaint, or that the facts as alleged in the Draft Complaint, other than jurisdictional facts, are true, (3) waivers and other provisions as required by the Commission’s Rules, and (4) a proposed Decision and Order and Order to Maintain Assets.

The Commission considered the matter and determined that it had reason to believe that Respondents have violated the said Acts, and that a complaint should issue stating its charges in that respect. The Commission accepted the Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments. The Commission duly considered any comments received from interested persons pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34. Now, in further conformity with the procedure described in Rule 2.34, the Commission issues its Complaint, makes the following jurisdictional findings, and issues the following Decision and Order (“Order”):

1. Respondent Össur Hf is a corporation organized, existing, and doing business under, and by virtue of, the laws of Iceland, with its executive offices and principal place of business located at Grjothals 1-5, 110 Reykjavik, Iceland, and its United States address for service of process is: 27051 Towne Center Drive, Foothill Ranch, California, 92610, United States of America.
2. Respondent Össur Americas Holdings, Inc. is a corporation organized, existing, and doing business under, and by virtue of, the laws of Delaware, with its executive offices and principal place of business located at 27051 Towne Center Drive, Foothill Ranch, California, 92610, United States of America.
3. Respondent College Park Industries, Inc. is a corporation organized, existing, and doing business under, and by virtue of, the laws of Michigan, with its executive offices and principal place of business located at 27955 College Park Drive, Warren, Michigan, 48088, United States of America.
4. The Commission has jurisdiction over the subject matter of this proceeding and over Respondents, and this proceeding is in the public interest.

ORDER

I. Definitions

IT IS ORDERED that, as used in the Orders, the following definitions shall apply:

- A. “College Park” means College Park Industries, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by College Park Industries, Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- B. “Össur Americas Holdings, Inc.” means Össur Americas Holdings, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by Össur Americas Holdings, Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.

- C. “Össur Hf” means Össur Hf, its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by Össur Hf, including Össur Americas Holdings, Inc., and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- D. “Acquirer” means: (i) Steeper or (ii) any other Person that the Commission approves to acquire the Myoelectric Elbow Assets pursuant to this Decision and Order.
- E. “Acquisition” means the proposed acquisition by Respondent Össur Hf of all the voting securities of College Park as described in the *Stock Purchase Agreement by and among College Park Industries, Inc., The Sellers Set Forth on Exhibit A, Össur Americas Holdings, Inc. and John Bonner, In His Capacity as Sellers Representative*, dated as of July 19, 2019.
- F. “Acquisition Date” means the date on which Respondents consummate the Acquisition.
- G. “Agency(ies)” means any government regulatory authority or authorities in the world responsible for granting Approval(s), clearance(s), qualification(s), license(s), or permit(s) for any aspect of the Myoelectric Elbow Business. The term “Agency” includes the United States Food and Drug Administration.
- H. “Approval(s)” means any approvals, registrations, permits, licenses, consents, authorizations, and other approvals, and pending applications and requests therefor, required by applicable Agencies related to the research, Development, manufacture, distribution, finishing, packaging, marketing, sale, storage, or transport of the Myoelectric Elbow Products worldwide.
- I. “Business” means the research, Development, manufacture, commercialization, distribution, marketing, importation, exportation, advertisement, or sale of a product.
- J. “Business Information” means all books, records, data, and information, wherever located and however stored, relating to the Myoelectric Elbow Assets or used in the Myoelectric Elbow Business, including documents, written information, graphic materials, and data and information in electronic format, along with the unwritten knowledge of employees, contractors and representatives. Business Information includes records and information relating to research and development, manufacturing, process technology, engineering, product formulations, production, sales, marketing, logistics, advertising, personnel, accounting, business strategy, information technology systems, customers, customer purchasing histories, customer preferences, delivery histories, delivery routing information, suppliers and all other aspects of the Myoelectric Elbow Business or Myoelectric Elbow Assets. For clarity, Business Information includes Respondents’ right and control over information and material provided to any other person.
- K. “College Park Manufacturing Equipment” means all fixtures, equipment, and machinery that are being used or have been used at any time by College Park to manufacture, assemble, package, or sell a Myoelectric Elbow Product, and as listed in Non-Public Appendix C.
- L. “Commission” means the Federal Trade Commission.

- M. “Confidential Business Information” means any non-public Business Information relating to the Myoelectric Elbow Assets and Myoelectric Elbow Business:
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 this Order or any Divestiture Agreement;
- Provided, however,* that Confidential Business 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.
- N. “Contracts” means all contracts, agreements, mutual understandings, arrangements, or commitments, including (i) those that make specific reference to a Myoelectric Elbow Product and pursuant to which any Third Party is obligated to purchase, or has the option to purchase without further negotiation of terms, that specific Myoelectric Elbow Product from Respondent College Park; and (ii) those regarding purchasing necessary components from any Third Party for use in connection with the manufacture or assembly of the Myoelectric Elbow Product.
- O. “Development” or “Develop” means all research and development activities, including: design; process development; manufacturing scale-up; development-stage manufacturing; quality assurance/quality control development; statistical analysis and report writing; mechanical properties testing; performance testing; safety testing; studies done for the purpose of obtaining or achieving any and all approvals, licenses, registrations, permits, or authorizations from any Agency necessary for the manufacture, use, storage, import, export, transport, promotion, marketing, and sale of a Myoelectric Elbow Product (including any government price or reimbursement approvals).
- P. “Direct Cost” means cost not to exceed the cost of labor, material, travel, and other expenditures to the extent the costs are directly incurred to provide Transitional Services. “Direct Cost” to an Acquirer for its use of any of Respondents’ employees’ labor shall not exceed the then-current average wage rate for such employee, including benefits.
- Q. “Divestiture Agreement(s)” means:
1. Asset Purchase Agreement by and among Össur Americas Holdings, Inc. and Hugh Steeper Ltd., dated as of March 5, 2020, and all amendments, exhibits, attachments, agreements, and schedules thereto, attached to the Order as Non-Public Appendix A; and
 2. Any other agreement between Respondents (or a Divestiture Trustee appointed pursuant to Paragraph X of this Order), and an Acquirer to purchase the

Myoelectric Elbow Assets, and all amendments, exhibits, attachments, agreements, and schedules thereto.

- R. “Divestiture Date” means the date on which the Respondents (or a Divestiture Trustee appointed pursuant to Paragraph X of this Order) consummate the divestiture of the Myoelectric Elbow Assets as required by Paragraph II of this Order.
- S. “Divestiture Trustee” means the Person appointed by the Commission pursuant to Paragraph X of this Order.
- T. “Employee Information” means, for each Myoelectric Elbow Employee, a profile prepared by Respondents summarizing the employment history of each employee and including, as requested by the Acquirer and to the extent permitted by applicable law:
1. Name, job title or position, date of hire, and effective service date;
 2. Specific description of the employee’s responsibilities;
 3. The base salary or current wages;
 4. Most recent bonus paid, aggregate annual compensation for Respondents’ last fiscal year, and current target or guaranteed bonus, if any;
 5. Employment status (i.e., active or on leave or disability; full-time or part-time);
 6. Any other material terms and conditions of employment in regard to such employee that are not otherwise generally available to similarly situated employees; and
 7. At the Acquirer’s option, copies of all employee benefit plans and summary plan descriptions (if any) applicable to the employee.
- U. “Excluded Assets” means:
1. Real property interests owned, leased or otherwise held, including easements and appurtenances, together with buildings, facilities and other structures, and improvements thereto;
 2. Respondents’ corporate or business logos, trademarks, service marks, domain names, trade or other names or any deviation thereof not exclusively related to the Myoelectric Elbow Business;
 3. Cash, cash equivalents and accounts receivable;
 4. Software that can be readily purchased or licensed from sources other than Respondents and that has not been materially modified;
 5. Enterprise software that Respondents also use in their businesses other than the Myoelectric Elbow Business;
 6. The portion of Business Information that contains information about any business other than the business divested to an Acquirer;
 7. Any original document that Respondents have a legal, contractual, or fiduciary obligation to retain the original; *provided, however*, that Respondents shall

provide copies of the record and shall provide the Acquirer access to the original materials if copies are insufficient for regulatory or evidentiary purposes; and

8. Assets specifically identified as excluded in Non-Public Appendix B.
- V. “Intellectual Property” means intellectual property of any kind, including patents, patent applications, mask works, trademarks, service marks, copyrights, trade dress, commercial names, internet websites, internet domain names, inventions, discoveries, process technology, engineering technology, product technology, product rights, trade secrets, know-how, and proprietary information.
- W. “Key Employees” means the employees listed in Non-Public Appendix D to this Order.
- X. “Marketing Materials” means all marketing materials used specifically in the marketing or sale of the Myoelectric Elbow Product as of the Divestiture Date, including all quality system documentation used for customer presentations, advertising materials, training materials, product data, mailing lists, sales materials (*e.g.*, sales reports, sales funnel or process information, and sales data), marketing information (*e.g.*, competitor information, research data, market intelligence reports, statistical programs (if any) used for marketing and sales research), customer information (including customer net purchase information to be provided on the basis of either dollars and/or units for each month, quarter or year), sales forecasting models, educational materials, and advertising and display materials, speaker lists, promotional and marketing materials to be provided to distributors and/or end-use customer (*e.g.* specification sheets, application/use instructions and technical specifications), website content and advertising and display materials, artwork for the production of packaging components, television masters, and other similar materials related to the Myoelectric Elbow Product.
- Y. “Monitor” means any monitor appointed pursuant to Paragraph IX of this Decision and Order or Paragraph V of the Order to Maintain Assets.
- Z. “Myoelectric Elbow Assets” means all legal or equitable rights, title, and interests in and to all tangible and intangible assets, wherever located, relating to the Myoelectric Elbow Business (including assets removed and not replaced after the announcement of the Acquisition, other than in the ordinary course of business), including:
 1. Business Information and Confidential Business Information;
 2. Intellectual Property;
 3. Approvals;
 4. The College Park Manufacturing Equipment, at the Acquirer’s option;
 5. Marketing Materials;
 6. The content related exclusively to the Myoelectric Elbow Product that is displayed on any website that is not dedicated exclusively to the Myoelectric Elbow Product;
 7. At the option of the Acquirer, all Contracts;
 8. For each Myoelectric Elbow Product:

- a. a list of all customers for each Myoelectric Elbow Product and a listing of the net sales (in either units or dollars) of that Myoelectric Elbow Product to such customers during the one (1) year period immediately prior to the Divestiture Date, stated on either an annual, quarterly, or monthly basis, including the name of each customer's employee(s) who is or has been responsible for the purchase of the product on behalf of the customer and that employee's business contact information;
 - b. a list for each Myoelectric Elbow Product containing: (i) the net price (*i.e.*, the final price per unit charged by Respondent College Park net of all customer-level discounts, rebates, or promotions) as of the Divestiture Date; and (ii) the net price charged by Respondent College Park at the end of each quarter during the one (1) year period immediately prior to the Divestiture Date.
9. At the option of the Acquirer, all Myoelectric Elbow Products inventory; and
10. The quantity and delivery terms in all unfilled customer purchase orders for each Myoelectric Elbow Product as of the Divestiture Date, to be provided to the Acquirer not later than 5 days after the Divestiture Date.

Provided, however, that "Myoelectric Elbow Assets" does not include the Excluded Assets.

- AA. "Myoelectric Elbow Business" means the Business related to the Myoelectric Elbow Products and including without limitation all improvements and activities relating thereto as of the Divestiture Date.
- BB. "Myoelectric Elbow Employees" means: (1) any and all full-time, part-time, or contract employees of Respondent College Park who work or worked on the Myoelectric Elbow Business, at any time 1 year prior to the Divestiture Date; and (2) the Key Employees.
- CC. "Myoelectric Elbow Product(s)" means the myoelectric prosthetic elbow products Developed, manufactured, assembled, marketed, sold, owned, or controlled by Respondent College Park, including the entire Espire Elbow family of products (e.g., Espire Pro, Hybrid, Classic Plus, Classic, and Basic).
- DD. "Order to Maintain Assets" means the Order to Maintain Assets incorporated into and made a part of the Agreement Containing Consent Orders.
- EE. "Orders" means this Decision and Order and the related Order to Maintain Assets.
- FF. "Person" means any individual, partnership, joint venture, firm, corporation, limited liability company, limited liability partnership, joint stock company, trust, unincorporated association or organization, or other business entity, and any subsidiaries, divisions, groups, or affiliates thereof.
- GG. "Steeper" means Steeper Group, a corporation organized, existing, and doing business under and by virtue of the laws of the United Kingdom with its executive offices and principal place of business located at Unit 3, Stourton Link, Intermezzo Drive, Leeds, LS10 1DF, United Kingdom, and any Person controlled by or under common control of Steeper Group.

- HH. “Technical Support” means all capabilities to provide customer-specific technical expertise, modification of products, customizing of products, testing of products, product performance advice, equipment assessment, on-site product assistance, monitoring of inventory levels and product orders/deliveries, and general product issue-solving and trouble-shooting.
- II. “Third Party(ies)” means any non-governmental Person other than Respondents or the Acquirer of particular assets or rights pursuant to this Order.
- JJ. “Transitional Product Supply” means Respondents’ provision of supply of the Myoelectric Elbow Products (including manufacture and assembly), and/or any component or input thereof, to the Acquirer.
- KK. “Transition Assistance” means Technical Support, services, assistance, cooperation, training and access to personnel regarding the transfer and operation of the Myoelectric Elbow Business, including, but not limited to, accounting and finance, human resources (employee benefits, payroll, etc.), information technology and systems, logistics (purchasing, distribution, warehousing, supply chain management, etc.), manufacturing (technology, technology transfer, operating permits and licenses, regulatory compliance, quality control, manufacturing processes and troubleshooting, etc.), research and Development, and sales and marketing (including customer service, supply chain management, and customer transfer logistics, etc.).

II. Divestiture

IT IS FURTHER ORDERED that:

- A. No later than 10 days after the Acquisition Date, Respondents shall divest, absolutely and in good faith, the Myoelectric Elbow Assets to Steeper pursuant to, and in accordance with, the Divestiture Agreements.

Provided, however, the Respondents may need to divest Excluded Assets if the Commission, in its sole discretion and within 12 months of the date of this Order is issued, determines in consultation with the Acquirer and the Monitor, that any such assets are necessary for the Acquirer to operate the Myoelectric Elbow Assets or the Myoelectric Elbow Business in a manner that achieves the purpose of this Order.

- B. If Respondents divest the Myoelectric Elbow Assets to Steeper before the Commission issues this Order, and the Commission subsequently notifies Respondents that:
 - 1. Steeper is not an acceptable acquirer of the Myoelectric Elbow Assets, then Respondents shall immediately rescind the Divestiture Agreements, and shall divest the Myoelectric Elbow Assets no later than 180 days from the date this Order is issued, absolutely and in good faith, at no minimum price, to an Acquirer that receives the prior approval of the Commission and in a manner that receives the prior approval of the Commission; or

2. The manner in which the divestiture of the Myoelectric Elbow Assets to the Acquirer was accomplished is not acceptable, the Commission may direct Respondents, or appoint a Divestiture Trustee, to effect such modifications to the manner of divestiture of the Myoelectric Elbow Assets as the Commission may determine are necessary to satisfy the requirements of this Order.
- C. Respondents shall deliver the Business Information and Intellectual Property related to the Myoelectric Elbow Products to the Acquirer as soon as practicable after the Divestiture Date in a manner that ensures their completeness, accuracy, and usefulness, and meets the reasonable requirements of the Acquirer.
- D. Prior to the Divestiture Date, Respondents shall provide the Acquirer with the opportunity to review all Contracts included in the Myoelectric Elbow Assets for the purposes of the Acquirer's determination whether to assume such Contracts; *provided, however*, that in cases in which any Contract also relates to an Excluded Asset, Respondents shall, at the Acquirer's option, assign or otherwise make available to the Acquirer all such rights under the Contract as are related to the Myoelectric Elbow Product, but concurrently may retain similar rights for the purposes of the Excluded Asset.
- E. Prior to the Divestiture Date, Respondents shall secure all consents, assignments, and waivers from all Persons that are necessary for the divestiture of the Myoelectric Elbow Assets; *provided, however*, that Respondents may satisfy this requirement by certifying that the Acquirer has executed appropriate agreements directly with each of the relevant Persons or has otherwise directly obtained the necessary consents.

Provided, however, that for the purposes of this Paragraph II.E., consents, assignments, and waivers do not include Approvals.

III. Divestiture Agreements

IT IS FURTHER ORDERED that:

- A. The Divestiture Agreements shall be incorporated by reference into this Order and made a part hereof, and any failure by Respondents to comply with the terms of the Divestiture Agreements shall constitute a violation of this Order; *provided, however*, that the Divestiture Agreements shall not limit, or be construed to limit, the terms of this Order. To the extent any provision in the Divestiture Agreements varies from or conflicts with any provision in this Order such that Respondents cannot fully comply with both, Respondents shall comply with this Order.
- B. Respondents shall not modify or amend the terms of the Divestiture Agreements after the Commission issues this Order without the prior approval of the Commission, except as otherwise provided in Commission Rule 2.41(f)(5), 16 C.F.R. § 2.41(f)(5).

IV. Transition Assistance and Supply

IT IS FURTHER ORDERED that:

- A. Until Respondents have transferred all Business Information included in the Myoelectric Elbow Assets, Respondents shall provide the Acquirer with access to records and information (wherever located and however stored) included in the Business Information that Respondents have not yet transferred to the Acquirer, and to employees who possess the records and information.
- B. Respondents shall provide the Acquirer with Transition Assistance and Transitional Product Supply sufficient to (i) efficiently transfer the Myoelectric Elbow Assets to the Acquirer and (ii) assist the Acquirer in operating the Myoelectric Elbow Assets and the Myoelectric Elbow Business in a manner equivalent in all material respects to the manner in which Respondent College Park did so prior to the Acquisition.
- C. Respondents shall provide Transition Assistance and Transitional Product Supply:
 - 1. As set forth in a Divestiture Agreement, or as otherwise reasonably requested by the Acquirer (whether before or after the Divestiture Date);
 - 2. At the price set forth in the Divestiture Agreement, or if no price is set forth, at Direct Cost; and
 - 3. For a period sufficient to meet the requirements of this paragraph, which shall be, at the option of the Acquirer, 12 months after the Divestiture Date, with a right to extend an additional 3 months at the request of the Acquirer and with approval by Commission staff. *Provided however*, that upon the Acquirer's request and with approval by Commission staff, Respondents must file with the Commission a written request to further extend the time period.
- D. During the term of any agreement with the Acquirer to provide Transition Assistance or Transitional Product Supply, and pursuant to such agreements and this Order, Respondents shall:
 - 1. Make representations and warranties to the Acquirer that the Myoelectric Elbow Products supplied by Respondents meet or have obtained the relevant Approvals;
 - 2. For Myoelectric Elbow Products to be marketed or sold worldwide, agree to indemnify, defend, and hold the Acquirer harmless from any and all suits, claims, actions, demands, liabilities, expenses, or losses alleged to result from the failure of the Myoelectric Elbow Products supplied to the Acquirer by Respondents to meet the relevant Approvals. This obligation may be made contingent upon the Acquirer giving Respondents prompt written notice of such claim and cooperating fully in the defense of such claim;

Provided, however, that Respondents may reserve the right to control the defense of any such claim, including the right to settle the claim, so long as such settlement is consistent with Respondents' responsibilities to supply the Myoelectric Elbow Products in the manner required by this Order;

Provided further, however, that this obligation shall not require Respondents to be liable for any negligent act or omission of the Acquirer or for any representations and warranties, express or implied, made by the Acquirer that exceed the representations and warranties made by Respondents to the Acquirer in an agreement to supply Myoelectric Elbow Products;

3. For each Myoelectric Elbow Product for which Respondents purchases the components(s) or material(s) from a Third Party, provide the Acquirer with the actual price paid by Respondents for components and materials used to manufacture that Myoelectric Elbow Product;
4. Upon written request and with reasonable notice by the Acquirer, allow employees of the Acquirer access to:
 - a. Facilities and machines that manufacture and assemble the Myoelectric Elbow Products; and
 - b. Areas where finished Myoelectric Elbow Products are stored and distributed.

Provided, however, Respondents may restrict access to the machines manufacturing or assembling the Myoelectric Elbow Products during such time, if any, as those machines are being used solely for other products.

5. Take all actions as are reasonably necessary to ensure that the provision of Transition Assistance and Transitional Product Supply to the Acquirer are uninterrupted; and
6. Not cease providing Transition Assistance or Transitional Product Supply due to breach by the Acquirer of a Divestiture Agreement, and shall not limit the damages (including indirect, special, and consequential damages) that an Acquirer is entitled to receive in the event of Respondents' breach of an agreement to provide Transition Assistance or Transitional Product Supply.

V. Employees

IT IS FURTHER ORDERED that:

- A. From the date Respondents sign the Consent Agreement up to 1 year after the Divestiture Date, Respondents shall cooperate with and assist any proposed Acquirer of the Myoelectric Elbow Assets to evaluate independently and offer employment to the Myoelectric Elbow Employees, with such cooperation to include at least the following:
 1. Not later than 5 business days after a request from a proposed Acquirer, Respondents shall, to the extent permitted by applicable law:
 - a. Provide to the proposed Acquirer a list of all Myoelectric Elbow Employees and provide Employee Information for each; and
 - b. Allow the proposed Acquirer a reasonable opportunity to interview any Myoelectric Elbow Employees.

2. Not later than 10 days after a request from a proposed Acquirer, Respondents shall provide an opportunity for that Acquirer to:
 - a. Meet personally, and outside the presence or hearing of any employee or agent of Respondents, with any of the Myoelectric Elbow Employees; and
 - b. Make offers of employment to any Myoelectric Elbow Employees.
 3. Respondents shall not directly or indirectly interfere with a proposed Acquirer's offer of employment to any one or more of the Myoelectric Elbow Employees, not offer any incentive to Myoelectric Elbow Employees to decline employment with a proposed Acquirer, and not otherwise interfere with the recruitment of any Myoelectric Elbow Employees by a proposed Acquirer;
 4. Respondents shall remove any impediments within the control of Respondents that may deter any Myoelectric Elbow Employees from accepting employment with a proposed Acquirer, including, but not limited to, removal of any non-compete or confidentiality provisions of employment or other contracts with Respondents that may affect the ability or incentive of those individuals to be employed by a proposed Acquirer, and shall not make any counteroffer to any Myoelectric Elbow Employees who receive an offer of employment from the Acquirer; *provided, however*, that nothing in this Order shall be construed to require Respondents to terminate the employment of any employee or prevent Respondents from continuing the employment of any employee; and
 5. Respondents shall provide Myoelectric Elbow Employees with reasonable financial incentives to continue in their positions, and as may be necessary to facilitate the employment of such Myoelectric Elbow Employees by the proposed Acquirer. Such incentives shall include a continuation of all employee compensation and benefits offered by Respondents, including regularly scheduled or merit raises and bonuses, regularly scheduled vesting of pension benefits, and additional reasonable incentives as may be necessary.
- B. If at any point within 1 year of the Divestiture Date, the Commission, in consultation with the Acquirer and the Monitor, determines in its sole discretion that the Acquirer should have the ability to interview, make offers of employment to, or hire any of Respondents' employees that are not otherwise included as Myoelectric Elbow Employees, then the Commission may notify Respondents that such employees are to be designated as Myoelectric Elbow Employees, and the provisions of this Paragraph V shall apply to such employees as of that notification date.
- C. Respondents shall:
1. For a period of 1 year from the Divestiture Date, not directly or indirectly solicit or induce, or attempt to solicit or induce, any Myoelectric Elbow Employee who has accepted an offer of employment with, or who is employed by, an Acquirer to terminate his or her employment relationship with the Acquirer; and
 2. For a period of 2 years from the Divestiture Date, not directly or indirectly solicit or induce, or attempt to solicit or induce, any Key Employee who has accepted an

offer of employment with, or who is employed by, an Acquirer to terminate his or her employment relationship with the Acquirer.

Provided, however, a violation of this Paragraph V.C will not occur if:

1. The 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 an employee who has applied for employment with Respondents, provided that such application was not solicited or induced in violation of this Order.

VI. Asset Maintenance

IT IS FURTHER ORDERED that:

- A. From the date Respondents sign the Consent Agreement until such time as Respondents divest the Myoelectric Elbow Assets to the Acquirer, Respondents shall:
 1. Take such actions as are necessary to maintain the full economic viability, marketability, and competitiveness of the Myoelectric Elbow Assets, to minimize any risk of loss of competitive potential of the Myoelectric Elbow Assets, to operate the Myoelectric Elbow Assets in a manner consistent with applicable laws and regulations, and to prevent the destruction, removal, wasting, deterioration, or impairment of the Myoelectric Elbow Assets (including regular repair and maintenance efforts), except for ordinary wear and tear. Respondents shall not sell, transfer, encumber, terminate the operations of, or otherwise impair the Myoelectric Elbow Assets (other than in the manner prescribed in this Order), nor take any action that lessens the full economic viability, marketability, or competitiveness of the Myoelectric Elbow Assets;
 2. Conduct or cause to be conducted the Myoelectric Elbow Business in the regular and ordinary course of business and in accordance with past practice and as may be necessary to preserve the full economic viability, marketability, and competitiveness of the Myoelectric Elbow Business, and shall use best efforts to preserve the relationships and goodwill with suppliers, customers, employees, governmental authorities, vendors, landlords, creditors, agents, and others having business relationships with the Myoelectric Elbow Business; and
- B. From the date the Respondents sign the Consent Agreement until such time as Acquirer purchases and installs the College Park Manufacturing Equipment or equipment that replicates the College Park Manufacturing Equipment such that it manufactures or assembles the Myoelectric Elbow Products in a manner that fulfills the Acquirer's worldwide demand, and until Acquirer obtains all relevant Approvals worldwide, Respondents shall:

1. Shall take actions as are necessary to prevent the destruction, removal, wasting, deterioration, or impairment of the College Park Manufacturing Equipment;
 2. Shall take actions as are necessary to operate the College Park Manufacturing Equipment in the regular and ordinary course of business and in accordance with past practices and in a manner consistent with applicable laws and regulation; and
 3. Shall not take any actions to reduce the availability of the services of the current officers, employees, and agents of Respondent College Park required to operate and maintain the College Park Manufacturing Equipment, except for terminations for cause.
- C. The purposes of this Paragraph VI is to: (1) preserve the Myoelectric Elbow Assets as a viable, competitive, and ongoing business until the assets are transferred to Acquirer and the College Park Manufacturing Equipment is either transferred or replicated by the Acquirer; (2) prevent interim harm to competition pending the relevant divestitures and other relief; and (3) help remedy any anticompetitive effects of the Acquisition as alleged in the Commission's Complaint.

VII. Confidential Business Information

IT IS FURTHER ORDERED that:

- A. Respondents shall:
1. Not provide, disclose, or otherwise make available any Confidential Business Information to any person, except as required or permitted by this Order, the Order to Maintain Assets, or a Divestiture Agreement;
 2. Not use any Confidential Business Information for any reason or purpose, other than as required or permitted by this Order, the Order to Maintain Assets, or a Divestiture Agreement;
 3. To the extent practicable, maintain Confidential Business Information separate and apart from other data or information of the Respondents; and
 4. Following the Acquisition Date, ensure that Confidential Business Information is not shared with Respondents' employees engaged in prosthetic elbow production or sales activities, other than employees who had access to the information prior to the Acquisition Date in the normal course of business and subject to the provisions of VII.A.1 and VII.A.2 above.

Provided, however, that nothing in this Paragraph VII shall prevent Respondents from retaining and using any tangible or intangible property that Respondents retain the right to use pursuant to this Order, provided further that to the extent that the use of such property involves disclosure of Confidential Business Information to another person, Respondents shall require such person to maintain the confidentiality of such

Confidential Business Information under terms no less restrictive than Respondents' obligations under this Order.

- C. Respondents shall devise and implement measures to protect against the storage distribution, and use of Confidential Business Information that is not permitted by this Order, the Order to Maintain Assets, or any Divestiture Agreement. 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.
- D. No later than 10 days after the Divestiture Date, and no less than annually for 3 years after the Divestiture Date, Respondents shall provide written notification of the restrictions on the use and disclosure of the Confidential Business Information by Respondents' personnel to all of its officers, directors, employees, or agents who may have possession or access to such Confidential Business Information. Respondents shall require such personnel to acknowledge in writing or electronically their receipt and understanding of these written instructions, and shall maintain custody of these written instructions and acknowledgments for inspection upon request by the Commission;
- E. Notwithstanding this Paragraph VII of this Order, and subject to the Order to Maintain Assets, Respondents may use Confidential Business Information:
 - 1. For the purpose of performing Respondents' obligations under this Order, the Order to Maintain Assets, or the Divestiture Agreements; and
 - 2. For purposes of complying with financial reporting requirements, obtaining legal advice, ensuring compliance with legal and regulatory requirements, prosecuting or defending legal claims, conducting investigations, or as otherwise required by law.

VIII. Additional Obligations

IT IS FURTHER ORDERED that:

- A. Respondents, in consultation with the Acquirer, for the purposes of ensuring an orderly transition, shall:
 - 1. Develop and implement a detailed transition plan to ensure that the commencement of the operation of the Myoelectric Elbow Business by the Acquirer is not delayed or impaired by the Respondents;
 - 2. Designate employees of Respondents knowledgeable about the operation of the Myoelectric Elbow Assets and Myoelectric Elbow Business, who will be responsible for communicating directly with the Acquirer, and the Monitor (if one has been appointed), for the purposes of assisting in the transfer to the Acquirer of the Myoelectric Elbow Assets and Myoelectric Elbow Business;
 - 3. Allow the Acquirer reasonable access to all Business Information related to the Myoelectric Elbow Assets and Myoelectric Elbow Business and to employees who possess or are able to locate such information; and

4. Establish projected timelines for accomplishing all tasks necessary to effectuate the transition to the Acquirer in an efficient and timely manner.
- B. Respondents shall not join, file, prosecute, or maintain any suit, in law or equity, against the Acquirer, its licensees, or its customers under any patent that was pending or issued on or before the Acquisition Date if such suit would directly limit or impair the Acquirer's freedom to manufacture, distribute, market, sell, or offer for sale any Myoelectric Elbow Product anywhere in the world.
 - C. Upon reasonable written notice and request from the Acquirer to Respondents, Respondents shall provide, in a timely manner, at no greater than Direct Cost, assistance of knowledgeable employees of Respondents to assist the Acquirer to defend against, respond to, or otherwise participate in any litigation brought by a Person related to the Intellectual Property related to any of the Myoelectric Elbow Product(s), if such litigation would have the potential to interfere with the Acquirer's freedom to practice: (i) the research, Development, or manufacture anywhere in the world of the Myoelectric Elbow Product(s) for the purposes of marketing, sale, or offer for sale of such Myoelectric Elbow Product(s); or (ii) the import, export, use, supply, distribution, sale, or offer for sale of the Myoelectric Elbow Product(s).
 - D. For any patent infringement suit filed prior to the Divestiture Date in which Respondents are alleged to have infringed a Patent of a Third Party or any potential patent infringement suit from a Third Party that Respondents have prepared or is preparing to defend against as of the Divestiture Date, and where such a suit would have the potential directly to limit or interfere with the Acquirer's freedom to practice: (i) the research, Development, or manufacture anywhere in the world of the Myoelectric Elbow Product(s) acquired for the purposes of marketing, sale, or offer for sale of such Myoelectric Elbow Product(s); or (ii) the import, export, use, supply, distribution, sale, or offer for sale of the Myoelectric Elbow Product(s), Respondents shall:
 1. Cooperate with the Acquirer and provide any and all necessary technical and legal assistance, documentation, and witnesses from Respondents in connection with obtaining resolution of any pending patent litigation related to that Myoelectric Elbow Product;
 2. Waive conflicts of interest, if any, to allow Respondents' outside legal counsel to represent the Acquirer in any ongoing patent litigation related to that Myoelectric Elbow Product; and
 3. Permit the transfer to the Acquirer of all of the litigation files and any related attorney work product in the possession of Respondents' outside counsel related to that Myoelectric Elbow Product.

IX. Monitor

IT IS FURTHER ORDERED that:

- A. Mark W. Ford of Catdaddy Consulting Services LLC shall serve as the Monitor pursuant to the agreement executed by the Monitor and Respondents and attached as Appendix E

(“Monitor Agreement”) and Non-Public Appendix F (“Monitor Compensation”). The Monitor is appointed to monitor Respondents’ compliance with the terms of this Order, the Order to Maintain Assets, and the Divestiture Agreement.

- B. No later than 1 day after the Order to Maintain Assets is issued, Respondents shall, pursuant to the Monitor Agreement, confer on the Monitor all rights, powers, and authorities necessary to permit the Monitor to monitor Respondents’ compliance with the terms of this Order, the Order to Maintain Assets, and the Divestiture Agreement, in a manner consistent with the purposes of the orders.
- C. Respondents shall consent to the following terms and conditions regarding the powers, duties, authorities, and responsibilities of the Monitor:
 - 1. The Monitor shall have the power and authority to monitor Respondents’ compliance with the divestiture and related requirements of this Order, the Order to Maintain Assets, and the Divestiture Agreement, and shall exercise such power and authority and carry out the duties and responsibilities of the Monitor in a manner consistent with the purposes of the orders;
 - 2. The Monitor shall act in consultation with the Commission or its staff, and shall serve as an independent third party and not as an employee or agent of the Respondents or of the Commission; and
 - 3. The Monitor shall serve until 30 days after Respondents have satisfied all obligations under Paragraph II and IV of this Order, or until such other time as may be determined by the Commission or its staff.
- D. Subject to any demonstrated legally recognized privilege, the Monitor shall have 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 this Order, the Order to Maintain Assets, and the Divestiture Agreement.
- E. 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 this Order, the Order to Maintain Assets, and the Divestiture Agreement.
- F. The Monitor shall serve, without bond or other security, at the expense of Respondents, on such reasonable and customary terms and conditions as the Commission may set. The Monitor shall have the 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.

- G. 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. For purposes of this Paragraph IX.G, the term "Monitor" shall include all persons retained by the Monitor pursuant to Paragraph IX.F of this Order.
- H. Respondents shall report to the Monitor in accordance with the requirements of this Order or the Order to Maintain Assets, and as otherwise provided in the Monitor Agreement approved by the Commission. The Monitor shall evaluate the reports submitted by the Respondents with respect to the performance of Respondents' obligations under this Order and the Order to Maintain Assets. Within 1 month from the date the Monitor is appointed pursuant to this Paragraph IX, and every 60 days thereafter (and otherwise as the Commission or its staff may request), the Monitor shall report in writing to the Commission concerning performance by Respondents of their obligations under the Orders.
- I. Respondents may require the Monitor and each of the Monitor's consultants, accountants, 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.
- J. The Commission may require, among other things, 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.
- K. 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 this Order.
- L. The Monitor appointed pursuant to this Order may be the same person appointed as a Divestiture Trustee pursuant to the relevant provisions of this Order.
- M. If the Commission determines that the Monitor has ceased to act or failed to act diligently, the Commission may appoint a substitute Monitor:
1. Commission may 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 a proposed Monitor within 10 days after the notice by the staff of the Commission to Respondents of the identity of any proposed Monitor, Respondents shall be deemed to have consented to the selection of the proposed Monitor.

2. Not later than 10 days after the appointment of the substitute Monitor, Respondents shall execute an agreement that, subject to the prior approval of the Commission, confers on the Monitor all rights and powers necessary to permit the Monitor to monitor Respondents' compliance with the relevant terms of this Order, the Order to Maintain Assets, and the Divestiture Agreement in a manner consistent with the purposes of the orders and in consultation with the Commission.

X. Divestiture Trustee

IT IS FURTHER ORDERED that:

- A. If Respondents have not fully complied with the divestiture and other obligations as required by Paragraph II of this Order, the Commission may appoint a Divestiture Trustee to divest the Myoelectric Elbow Assets and perform Respondents' other obligations in a manner that satisfies the requirements of this Order.
- B. In the event that the Commission or the Attorney General brings an action pursuant to § 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 relevant assets in accordance with the terms of this Order. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under this paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed Divestiture Trustee, pursuant to § 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.
- C. The Commission may select the Divestiture Trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld. The Divestiture Trustee shall be a person with experience and expertise in acquisitions and divestitures. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed Divestiture Trustee within 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.
- D. Within 10 days after appointment of a Divestiture Trustee, Respondents shall execute a trust agreement 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 effect the relevant divestiture or other action required by the Order.
- E. If a Divestiture Trustee is appointed by the Commission or a court pursuant to this Order, Respondents shall consent to the following terms and conditions regarding the Divestiture Trustee's powers, duties, authority, and responsibilities:

1. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to assign, grant, license, divest, transfer, deliver, or otherwise convey the relevant assets that are required by this Order to be assigned, granted, licensed, divested, transferred, delivered, or otherwise conveyed, and to take such other action as may be required to divest the Myoelectric Elbow Assets.
2. The Divestiture Trustee shall have 12 months from the date the Commission approves the trust agreement described herein to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the 12 month period, the Divestiture Trustee has submitted a plan of divestiture or believes that the divestiture can be achieved within a reasonable time, the divestiture 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 2 times.
3. Subject to any demonstrated legally recognized privilege, the 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 assigned, granted, licensed, divested, delivered, or otherwise conveyed by this Order and to any other relevant information, as the Divestiture Trustee may request. Respondents shall develop such financial or other information as the Divestiture Trustee may request and shall cooperate with the Divestiture Trustee. Respondents shall take no action to interfere with or impede the Divestiture Trustee's accomplishment of the divestiture. Any delays in divestiture caused by Respondents shall extend the time for divestiture under this Paragraph X in an amount equal to the delay, as determined by the Commission or, for a court-appointed Divestiture Trustee, by the court.
4. The 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 and to the Acquirer that receives the prior approval of the Commission as required by this Order; *provided, however*, if the Divestiture Trustee receives bona fide offers 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 5 days of receiving notification of the Commission's approval.
5. The 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. The 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. The Divestiture Trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed Divestiture Trustee, by the court, 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 the 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.

6. Respondents shall indemnify the 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 or willful misconduct by the Divestiture Trustee. For purposes of this Paragraph X.E.6., the term "Divestiture Trustee" shall include all Persons retained by the Divestiture Trustee pursuant to Paragraph X.E.5. of this Order.
 7. The Divestiture Trustee shall have no obligation or authority to operate or maintain the relevant assets required to be divested by this Order.
 8. The Divestiture Trustee shall report in writing to Respondents and to the Commission every 60 days concerning the Divestiture Trustee's efforts to accomplish the divestiture.
 9. 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.
- F. The Commission may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign a confidentiality agreement related to Commission materials and information received in connection with the performance of the Divestiture Trustee's duties.
- G. If the Commission determines that a 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 X.

- H. The Divestiture Trustee appointed pursuant to this Order may be the same Person appointed as the Monitor pursuant to the relevant provisions of this Order.
- I. The Commission or, in the case of a court-appointed Divestiture Trustee, the court, may on its own initiative or at the request of the Divestiture Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestitures and other obligations or actions required by this Order.

XI. Prior Notice

IT IS FURTHER ORDERED that:

- A. For a period of 5 years from the date this Order is issued, Respondents shall not, without providing advance written notification to the Commission in the manner described in this Paragraph XI:
 - 1. Acquire any assets of, or financial interest in, any Person that researches, develops, manufactures, markets, or sells a myoelectric prosthetic elbow;
 - 2. Acquire a license or ownership interest in Intellectual Property related to any myoelectric prosthetic elbow; or
 - 3. Enter into any contract to participate in the management, operation, or control of any company with a myoelectric prosthetic elbow.
- B. Said notification shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (herein referred to as “the Notification”), 16 C.F.R. § 803 App., and shall be prepared and transmitted in accordance with the requirements of that Part, except that no filing fee will be required for any such notification, notification shall be filed with the Secretary of the Commission, notification need not be made to the United States Department of Justice, and notification is required only of Respondents and not of any other party to the transaction. Respondents shall provide the Notification to the Commission at least 30 days prior to consummating the transaction (hereinafter referred to as the “first waiting period”). If, within the first waiting period, representatives of the Commission make a written request for additional information or documentary material (within the meaning of 16 C.F.R. § 803.20), Respondents shall not consummate the transaction until 30 days after submitting such additional information or documentary material. Early termination of the waiting periods in this Paragraph XI may be requested and, where appropriate, granted by letter from the Bureau of Competition. *PROVIDED, HOWEVER*, that prior notification shall not be required by this Paragraph XI for a transaction for which Notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. § 18a.

XII. Compliance Reports

IT IS FURTHER ORDERED that:

- A. Respondents shall:
1. Notify Commission staff via email at bccompliance@ftc.gov of the Acquisition Date and of the Divestiture Date no later than 5 days after the occurrence of each; and
 2. Submit the complete Divestiture Agreements to the Commission at ElectronicFilings@ftc.gov and bccompliance@ftc.gov no later than 30 days after the Divestiture Date.
- B. Respondents shall file verified written reports (“compliance reports”) in accordance with the following:
1. Respondents shall submit interim compliance reports 30 days after the Order is issued, and every 60 days thereafter until Respondents have fully complied with Paragraphs II and IV of this Order; annual compliance reports one year after the date this Order is issued, and annually for the next 4 years on the anniversary of that date; and additional compliance reports as the Commission or its staff may request.
 2. Each compliance report shall contain sufficient information and documentation to enable the Commission to determine independently whether Respondents are in compliance with the Order. Conclusory statements that Respondents have complied with their obligations under the Order are insufficient. Respondents shall include in their reports, among other information or documentation that may be necessary to demonstrate compliance:
 - a. A full description of the measures Respondents have implemented or plan to implement to ensure that they have complied or will comply with each paragraph of the Order; and
 - b. A detailed description of all substantive contacts, negotiations, actions, or recommendations related to:
 - i. The transfer and delivery of all Myoelectric Elbow Assets to the Acquirer;
 - ii. The provision of Transition Assistance to the Acquirer; and
 - iii. The provision of Transitional Product Supply of the Myoelectric Elbow Products to the Acquirer.
 3. Respondents shall retain all material written communications with each party identified in the compliance report and all non-privileged internal memoranda,

reports, and recommendations concerning fulfilling Respondents' obligations under the Order and provide copies of these documents to Commission staff upon request.

4. Respondents shall verify each compliance report in the manner set forth in 28 U.S.C. § 1746 by the Chief Executive Officer or another officer or employee specifically authorized to perform this function. Respondents shall submit an original and 2 copies of each compliance report as required by Commission Rule 2.41(a), 16 C.F.R. § 2.41(a), including a paper original submitted to the Secretary of the Commission and electronic copies to the Secretary at ElectronicFilings@ftc.gov and to the Compliance Division at bccompliance@ftc.gov. In addition, Respondents shall provide a copy of each compliance report to the Monitor.

XIII. Change in Respondents

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

- A. The proposed dissolution of either Össur Hf, Össur Americas Holding, Inc., or College Park Industries, Inc.;
- B. The proposed acquisition, merger or consolidation of either Össur Hf, Össur Americas Holding, Inc., or College Park Industries, Inc.; or
- C. Any other change in Respondents, including assignment and the creation, sale, or dissolution of subsidiaries, if such change may affect compliance obligations arising out of this Order.

XIV. Access

IT IS FURTHER ORDERED that, for purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and 5 days' notice to a Respondent, made to its principal place of business as identified in this Order, registered office of its United States subsidiary, or its headquarters office, the notified Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of that Respondent and in the presence of counsel, to all facilities and access to inspect and copy all business and other records and all documentary material and electronically stored information as defined in Commission Rules 2.7(a)(1) and (2), 16 C.F.R. § 2.7(a)(1) and (2), in the possession or under the control of that Respondent related to compliance with this Order, which copying services shall be provided by that Respondent at the request of the authorized representative of the Commission and at the expense of that Respondent; and
- B. To interview officers, directors, or employees of that Respondent, who may have counsel present, regarding such matters.

XV. Purpose

IT IS FURTHER ORDERED that the purpose of this Order is to:

- A. Ensure that the Acquirer can operate the Myoelectric Elbow Business in a manner equivalent in all material aspects to the manner in which Respondent College Park operated the Myoelectric Elbow Businesses prior to the Acquisition;
- B. Create a viable and effective competitor that is independent of Respondents in the Myoelectric Elbow Business; and
- C. Remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's Complaint in a timely and sufficient manner.

XVI. Term

IT IS FURTHER ORDERED that this Order shall terminate on May 27, 2030.

By the Commission, Commissioner Slaughter not participating.

April J. Tabor
Acting Secretary

SEAL
ISSUED: May 27, 2020

**NON-PUBLIC APPENDIX A
DIVESTITURE AGREEMENTS**

[COVER PAGE]

**NON-PUBLIC APPENDIX B
EXCLUDED ASSETS**

[COVER PAGE]

**NON-PUBLIC APPENDIX C
COLLEGE PARK MANUFACTURING EQUIPMENT**

[COVER PAGE]

**NON-PUBLIC APPENDIX D
KEY EMPLOYEES**

[COVER PAGE]

APPENDIX E MONITOR AGREEMENT

MONITOR RETENTION AGREEMENT

This Monitor Agreement (“Monitor Agreement”) entered into on March 5, 2020 between Mark Ford of Catdaddy Enterprises, LLC, an Ohio limited liability company (the “Monitor”), and Respondent Össur Americas Holdings Inc., controlled by Respondent Össur Hf, of the voting securities of Respondent College Park Industries, Inc. (collectively “Respondents”) provides as follows:

WHEREAS the United States Federal Trade Commission (the “FTC”) has accepted or will shortly accept for public comment an Agreement Containing Consent Orders, containing a proposed Decision and Order and Order to Maintain Assets (collectively, the “Orders”), which, among other things, (i) would require the divestiture of the Myoelectric Elbow Assets, as defined in the Decision and Order, and (ii) contemplates the appointment of a Monitor to monitor Respondents’ compliance with their obligations under the Orders;

WHEREAS the FTC may appoint Mark Ford of Catdaddy Enterprises, LLC as Monitor pursuant to the Orders;

WHEREAS the Orders further provide that Respondents shall execute an agreement, subject to the prior approval of the FTC, that confers all the rights and powers necessary to permit the Monitor to monitor Respondents’ compliance with the terms of the Orders; and

WHEREAS the parties to this Monitor Agreement intend to be legally bound, subject only to the FTC’s approval of this Agreement.

NOW, THEREFORE, the parties agree as follows:

All capitalized terms used in the Agreement and not specifically defined herein shall have the respective definitions given to them in the Orders.

- A. Monitor’s Responsibilities. The Monitor shall be responsible for monitoring Respondents’ compliance with their obligations as set forth in the Orders and the Divestiture Agreements (“Monitor’s Responsibilities”). In so doing, the Monitor shall act in consultation with the Commission or its staff, and **shall serve as an independent third party and not as an employee or agent of the Respondents or the Commission.** The Monitor shall have all rights, duties, powers and authorities required by the Orders, and nothing in the Monitor Agreement shall change, amend, modify or otherwise limit those rights, duties, powers, and authorities.
- B. Access to Relevant Information and Facilities. Subject to any demonstrated legally recognized privilege, the Monitor shall have full and complete access to the personnel, books and records of Respondents kept in the ordinary course of business, facilities, technical information related to Respondents’ compliance with its obligations under the Orders and any Remedial Agreements, and such other relevant information as the Monitor may reasonably request.

Respondents shall cooperate with any reasonable request of the Monitor. The Monitor shall give Respondents a written request and at least five (5) days’ prior notice of any

request for such access or such information and 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, as reasonable times and locations between the Monitor and employees of Respondents who have knowledge relevant to the proper discharge of the Monitor's responsibilities under the Orders.

- C. Compliance Reports. Respondents shall provide the Monitor with copies of all compliance reports filed with the FTC in a timely manner, but in any event, no later than five (5) days after the date on which Respondents file such report with the FTC.
- D. Additional Personnel. Respondents agree that, to the extent authorized by the Orders, the Monitor shall have the authority to employ, at the expense of the Respondents, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Monitor's Responsibilities.
- E. Monitor's Obligations. The Monitor shall:
 - 1. Carry out the Monitor's Responsibilities, including submission of periodic reports to the FTC or its staff concerning performance by Respondents of their obligations under the Orders, and any additional written reports as may be requested by the FTC or its staff;
 - 2. Maintain the confidentiality of all non-public information, including Confidential Business Information, provided to the Monitor by Respondents, the FTC-approved Acquirer(s), any supplier or customer of the Respondents, the FTC, or FTC staff in connection with the Monitor's Responsibilities ("Confidential Information"). Such Confidential Information shall be used only for the purpose of discharging the Monitor's obligations pursuant to this Monitor Agreement and not for any other purposes, including, without limitation, any other business, scientific, technological, or personal purpose. The Monitor may only disclose Confidential Information to:
 - a. Persons employed by or working with the Monitor under this Monitor Agreement and who have executed a confidentiality agreement consistent with the provisions of this Agreement;
 - b. Persons employed by Respondents that are entitled to have access to such Confidential Information;
 - c. FTC staff that are working on this matter; or
 - d. Persons employed by the FTC-approved Acquirer that are entitled to have access to such Confidential Information.
 - 3. Maintain a record and inform the FTC or its staff of all persons to whom Confidential Information related to this Monitor Agreement has been disclosed;
 - 4. Require any consultants, accountants, attorneys, and any other representatives and/or assistants retained by the Monitor to assist in carrying out the Monitor's Responsibilities to execute a confidentiality agreement that requires such third parties to treat Confidential Information with the same standards of care and

obligations of confidentiality to which the Monitor must adhere under this Monitor Agreement;

5. Maintain the confidentiality for a period of seven (7) years after the termination of this Monitor Agreement, of all other aspects of the performance of the Monitor's Responsibilities and not disclose Confidential Information relating thereto except as required by law. In the event the Monitor is requested pursuant to subpoena or other legal process to produce any documents or to provide testimony relating to this matter in judicial or administrative proceedings to which the Monitor is not a party, Respondents shall reimburse the Monitor at standard billing rates for all professional time and expenses, including reasonable attorneys' fees, incurred in preparing for and responding to requests for documents and providing testimony;
6. Upon termination of the Monitor's duties under this Monitor Agreement, the Monitor shall consult with FTC staff regarding disposition of any written and electronic materials (including materials that Respondent 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 FTC staff, as directed by the FTC staff. In response to a request by Respondent to return or destroy materials that Respondent provided to the Monitor, the Monitor shall inform FTC staff of such request and, if the FTC staff does 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 the purpose of this Monitor Agreement, information shall not be considered confidential or proprietary to the extent it is or becomes part of the public domain (other than as a result of any action by the Monitor or by any employee, agent, affiliate or consultant of the Monitor), or to the extent that the recipient of such information can demonstrate that such information was already known to the recipient at the time of receipt from a source other than the Monitor, the Respondents, or any director, officer, employee, agent, consultant or affiliate of the Monitor or the Respondents, when such source was not known to the recipient after the due inquiry to be restricted from making such disclosure to such recipient.

- F. Monitor Payment. Respondents shall pay Monitor a fee as provided in the confidential fee schedule attached as Appendix A hereto. In addition, Respondents shall pay: (i) all documented out-of-pocket expenses reasonably incurred by Monitor in the performance of its duties under the Orders; and (ii) all documented reasonable fees of, and disbursements reasonably incurred by, any consultants, accountants, attorneys, and other representatives and assistants appointed by Monitor pursuant to Section D above. Monitor shall provide Respondents with monthly invoices for time and expenses that include details by timekeeper, time, activity, and an explanation of all matters for which Monitor submits an invoice to Respondents. Respondents shall pay such invoices within thirty (30) days of receipt. Monitor and Respondents shall submit any disputes about invoices to the Commission staff for assistance in resolving such disputes.
- G. Monitor's Indemnification and Limitation of Liability. Respondents shall indemnify 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 Responsibilities,

including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of, any claim whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from gross negligence, willful misconduct, or bad faith by the Monitor. In addition, the parties shall not be liable to each other for any consequential, incidental, special or punitive damages, nor shall the Monitor be liable for direct compensatory damages in excess of the fees actually received by the Monitor for the performance of services hereunder.

- H. Disputes. In the event of a disagreement or dispute between Respondents and the Monitor concerning Respondents obligations under one or both Orders, and, in the event that such disagreement or dispute cannot be resolved by the parties, either party may seek the assistance of the staff of the FTC in charge of compliance.
- I. Conflicts of Interest. If the Monitor becomes aware during the term of this Monitor Agreement that the Monitor has or may have a conflict of interest that may affect or could have the appearance of affecting performance by the Monitor of any of the Monitor's Responsibilities, the Monitor shall immediately inform the Respondents and FTC staff of any such conflict. The Monitor may accept other retentions during the term of this Monitor Agreement and thereafter, provided that, during the pendency of this Monitor Agreement, the Monitor agrees not to accept any other engagement which would result in the Monitor working in a position directly adverse to the FTC, the Respondents, or the FTC-approved Acquirer(s) in any substantially related matter.
- J. Standard of Care. In the performance of the Monitor's Responsibilities, the Monitor shall exercise the standard of care and diligence that would be expected of a reasonable person in the conduct of the person's own business affairs.
- K. Term. This Monitor Agreement shall terminate no later than: (i) the date set forth in the relevant provisions of the Orders; (ii) the date on which the FTC appoints a substitute monitor pursuant to the Orders; or (iii) the date Respondents notify the Monitor that the Respondents have received a notification from FTC staff that the Monitor has ceased to act or failed to act in a manner consistent with the Monitor's responsibilities under the Orders.
- L. Termination. In the event that FTC staff notifies Respondents that the Monitor has ceased to act or failed to act in a manner consistent with the Monitor's responsibilities under the Orders, Respondents shall be entitled to immediately terminate this Monitor Agreement.
- M. Governing Law. This Agreement and the rights and obligations of the parties hereunder shall in all respects be governed by the substantive laws of the State of New York, including all matters of construction, validity and performance. The Orders shall govern this Monitor Agreement and any provisions herein which conflict or are inconsistent with them may be declared null and void by the FTC and any provision not in conflict shall survive and remain a part of this Monitor Agreement.
- N. Disclosure of Information. Nothing in this Monitor Agreement shall require Respondents to disclose any material information that is subject to a legally recognized privilege or that Respondents are prohibited from disclosing by reason of law.
- O. Assignment. This Monitor Agreement may not be assigned or otherwise transferred by Respondents or the Monitor without the consent of the Respondents, the Monitor, and the

approval of the FTC. Any such assignment or transfer may only be made in a manner consistent with the terms of the Orders.

- P. Modification. No amendment, modification, termination, or waiver of any provision of this Monitor Agreement shall be effective unless made in writing, signed by all parties, and approved by the FTC. Any such amendment, modification, termination, or waiver may only be made in manner consistent with the terms of the Orders.
- Q. Approval by the FTC. This Monitor Agreement shall have no force or effect with respect to the Orders until approved by the FTC.
- R. Entire Agreement. This Monitor Agreement, and those portions of the Orders incorporated herein by reference, constitute the entire agreement of the parties and supersede any and all prior agreement and understandings between the parties, written or oral, with respect to the subject matter hereof.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Monitor Agreement as of the date first written above.

MONITOR

CATDADDY ENTERPRISES, LLC

By: Mark W. Ford
Name: Mark Ford
Title: President

RESPONDENTS

OSSUR AMERICAS HOLDINGS, INC.

By: _____
Name: Jon Sigurdsson
Title: CEO

OSSUR HF

By: _____
Name:
Title:

COLLEGE PARK INDUSTRIES, INC.

By: _____
Name: William Carver
Title: President

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By: _____
Name: Mark Ford
Title: President

RESPONDENTS

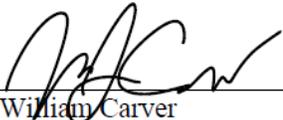
OSSUR AMERICAS HOLDINGS, INC.

By: _____
Name: Jon Sigurdsson
Title: CEO

OSSUR HF

By: _____
Name:
Title:

COLLEGE PARK INDUSTRIES, INC.

By:  _____
Name: William Carver
Title: President

**NON-PUBLIC APPENDIX F
MONITOR COMPENSATION**

[COVER PAGE]