

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

In the Matter of)	
)	
)	
THERMO FISHER SCIENTIFIC INC.,)	File No. 131-0134
a corporation.)	
)	
)	

AGREEMENT CONTAINING CONSENT ORDERS

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed acquisition of Life Technologies Corporation by Thermo Fisher Scientific Inc. (“Proposed Respondent”), and it now appearing that Proposed Respondent is willing to enter into this Agreement Containing Consent Orders (“Consent Agreement”) to divest certain assets and providing for other relief:

IT IS HEREBY AGREED by and between Proposed Respondent, by its duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed Respondent Thermo Fisher is a corporation organized, existing, and doing business under the laws of the State of Delaware with its office and principal headquarters located at 81 Wyman Street, Waltham, Massachusetts 02451.
2. Proposed Respondent admits all the jurisdictional facts set forth in the Complaint.
3. Proposed Respondent waives:
 - a. Any further procedural steps;
 - b. The requirement that the Commission’s Decision and Order and Order to Hold Separate and Maintain Assets (“Orders”), both attached hereto and made a part hereof, contain statements of findings of fact and conclusions of law;
 - c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Decision and Order and Order to Hold Separate and Maintain Assets entered pursuant to this Consent Agreement; and
 - d. Any claim under the Equal Access to Justice Act.

4. Because there may be interim competitive harm, the Commission may issue and serve its Order to Hold Separate and Maintain Assets in this matter at any time after it accepts this Consent Agreement for public comment.
5. Seven (7) calendar days after this Consent Agreement is signed by the Proposed Respondent, the Proposed Respondent shall submit its initial compliance report, pursuant to Section 2.33 of the Commission Rules, 16 C.F.R. § 2.33, and thereafter, shall submit compliance reports every seven (7) calendar days until the Order to Hold Separate and Maintain Assets becomes final, at which time the reporting obligations contained in the Order to Hold Separate and Maintain Assets (other than the requirement to submit an initial report pursuant to this Consent Agreement) shall control. Each compliance report shall set forth in detail the manner in which the Proposed Respondent has complied, is complying, and will comply with the Consent Agreement, the Order to Hold Separate and Maintain Assets, and the Decision and Order. The Proposed Respondent shall provide sufficient information and documentation to enable the Commission to determine independently that the Proposed Respondent is in compliance with the Consent Agreement and each of the Orders.
6. Each compliance report shall be either verified by a notarized signature or self-verified in a manner set forth in 28 U.S.C. § 1746. Section 2.41(a) of the Commission's Rules of Practice requires that an original and two copies of all compliance reports be filed with the Commission. The Proposed Respondent shall file an original report and one copy with the Secretary of the Commission, and shall send at least one copy directly to the Bureau of Competition's Compliance Division.
7. This Consent Agreement, and any compliance reports filed pursuant to this Consent Agreement, shall not become part of the public record of the proceeding unless and until the Consent Agreement is accepted by the Commission. If this Consent Agreement is accepted by the Commission, it will be placed on the public record for a period of thirty (30) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Consent Agreement and so notify the Proposed Respondent, in which event the Commission will take such action as it may consider appropriate, or issue and serve its Decision and Order, in disposition of the proceeding.
8. This Consent Agreement is for settlement purposes only and does not constitute an admission by Proposed Respondent that the law has been violated as alleged in the draft of Complaint, or that the facts as alleged in the draft Complaint, other than jurisdictional facts, are true.
9. This Consent Agreement contemplates that, if it is accepted by the Commission, the Commission may (a) issue and serve its Order to Hold Separate and Maintain Assets; and (b) make information public with respect thereto. If such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Commission Rule 2.34, 16

C.F.R. § 2.34, the Commission may, without further notice to Proposed Respondent, issue the attached Decision and Order containing an order to divest and providing for other relief in the disposition of the proceeding.

10. When final, the Decision and Order and Order to Hold Separate and Maintain Assets shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time as provided by statute for other orders. The Decision and Order and Order to Hold Separate and Maintain Assets shall become final upon service. Delivery of the Decision and Order and the Order to Hold Separate and Maintain Assets to the Proposed Respondent by any means provided in Commission Rule 4.4(a), 16 C.F.R. § 4.4(a), including, without limitation, delivery to an office within the United States of the counsel for the Proposed Respondent identified on this Consent Agreement, shall constitute service. Proposed Respondent waives any rights it may have to any other manner of service. Proposed Respondent also waives any right it may otherwise have to service of any appendices attached or incorporated by reference into the Decision and Order or Order to Hold Separate and Maintain Assets, if Proposed Respondent is already in possession of copies of such appendices, and agrees that it is bound to comply with and will comply with the Decision and Order and the Order to Hold Separate and Maintain Assets to the same extent as if it had been served with copies of such appendices.
11. The Complaint may be used in construing the terms of the Decision and Order and the Order to Hold Separate and Maintain Assets, and no agreement, understanding, representation, or interpretation not contained in the Decision and Order, the Order to Hold Separate and Maintain Assets, or the Consent Agreement may be used to vary or contradict the terms of the Decision and Order or the Order to Hold Separate and Maintain Assets.
12. By signing this Consent Agreement, Proposed Respondent represents and warrants that it can fulfill all the terms of the Order to Hold Separate and Maintain Assets and accomplish the full relief contemplated by the attached Decision and Order (including effectuating the required divestitures, as well as any necessary assignments or transfers) and that all parents, subsidiaries, affiliates, and successors necessary to effectuate the full relief contemplated by this Consent Agreement are parties to this Consent Agreement or within the control of parties to this Consent Agreement.
13. Proposed Respondent agrees that it shall interpret the Dharmacon Divestiture Agreement and HyClone Cell Culture Divestiture Agreement, as those terms are used in the Decision and Order, in a manner that is fully consistent with all of the relevant provisions and remedial purposes of the Order to Hold Separate and Maintain Assets and the Decision and Order.
14. Proposed Respondent has read the draft of Complaint, the Decision and Order, and the Order to Hold Separate and Maintain Assets. Proposed Respondent understands that

once the Decision and Order and Order to Hold Separate and Maintain Assets have been issued, the Proposed Respondent will be required to file one or more compliance reports showing that the Proposed Respondent has fully complied with the Decision and Order and the Order to Hold Separate and Maintain Assets.

15. The Proposed Respondent agrees to comply with the applicable terms of the proposed Decision and Order and Order to Hold Separate and Maintain Assets from the date the Proposed Respondent signs this Consent Agreement. Proposed Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Decision and Order and of the Order to Hold Separate and Maintain Assets after such Orders become final.

THERMO FISHER SCIENTIFIC INC.

FEDERAL TRADE COMMISSION

By: Marc N. Casper
President & Chief Executive Officer
Thermo Fisher Scientific Inc.

Dated: _____

James R. Weiss, Jr.
Attorney
Bureau of Competition

Approved:

By: John D. Harkrider
Axinn, Veltrop & Harkrider LLP
Counsel for Thermo Fisher Scientific Inc.

Dated: _____

Daniel Zach
Deputy Assistant Director
Bureau of Competition

Michael R. Moiseyev
Assistant Director
Bureau of Competition

Stephen Weissman
Deputy Director
Bureau of Competition

Dated: _____