

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

COMMISSIONERS: Robert Pitofsky, Chairman
Sheila F. Anthony
Mozelle W. Thompson
Orson Swindle
Thomas B. Leary

In the Matter of)	
)	
The Dow Chemical Company,)	
a corporation, and)	DOCKET NO.
)	
Union Carbide Corporation,)	DECISION AND ORDER
a corporation.)	

The Federal Trade Commission ("the Commission"), having initiated an investigation of the proposed acquisition by The Dow Chemical Company ("Dow") of Union Carbide Corporation ("Union Carbide"), collectively hereinafter sometimes referred to as "Respondents," including Union Carbide's interest in Univation Technologies LLC, and Respondents having been furnished with a copy of a draft complaint that the Bureau of Competition has presented to the Commission for its consideration and which, if issued by the Commission, would charge Dow and Union Carbide with violations of the Clayton Act and Federal Trade Commission Act; and

Respondents Dow and Union Carbide and their attorneys, and counsel for the Commission having thereafter executed an agreement containing consent order, an admission by Respondents of all the jurisdictional facts set forth in the aforesaid draft complaint, 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 such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that 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 Maintain Assets (Appendix A), 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 The Dow Chemical Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal executive offices located at 2030 Dow Center, Midland, Michigan 48674.

2. Respondent Union Carbide Corporation is a corporation organized and existing under the laws of the State of Delaware with its principal executive offices located at 2030 Dow Center, Midland, Michigan 48674.

ORDER

I.

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

A. The following terms shall mean the following entities:

1. “Dow” means The Dow Chemical Company, its directors, officers, employees, agents and representatives, predecessors, successors, and assigns; its subsidiaries, divisions, groups and affiliates controlled by The Dow Chemical Company, and the respective directors, officers, employees, agents and representatives, successors, and assigns of each. Dow does not include Union Carbide Corporation or Univation.

2. “Union Carbide” means Union Carbide Corporation, its directors, officers, employees, agents and representatives, predecessors, successors, and assigns; its subsidiaries, divisions, groups and affiliates controlled by Union Carbide Corporation, and the respective directors, officers, employees, agents and representatives, successors, and assigns of each. Union Carbide does not include Dow. Union Carbide does not include Univation.

3. “Univation” means Univation Technologies, LLC, a limited liability company organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its offices and principal place of business located at 555 San Felipe Road, Suite 1950, Houston, Texas 77056.

4. “Respondents” means Dow and Union Carbide individually and collectively.

5. “Commission” means the Federal Trade Commission.

6. “Asahi” means Asahi Chemical Industry Co., Ltd., a foreign corporation, existing and doing business under and by virtue of the laws of Japan, with its offices and principal place of business located at 1-2, Yuraku-cho, 1-chome, Chiyoda-ku, Tokyo 100, Japan, its subsidiaries, divisions, groups and affiliates.

7. “BP” means BP Amoco p.l.c., a foreign corporation, existing and doing business under and by virtue of the laws of England and Wales, with its offices and principal executive offices located at Britannic House, 1 Finsbury Circus, London EC2M, England, its subsidiaries, divisions, groups and affiliates. BP’s principal U.S. office is located at 200 East Randolph Drive, Chicago, Illinois 60601-7125.

8. “Exxon” or “Exxon Mobil” means Exxon Mobil Corporation, a corporation organized, existing and doing business under and by virtue of the laws of

the State of New Jersey, with its offices and principal place of business located at 5959 Las Colinas Boulevard, Irving, Texas 75039-2298, its subsidiaries, divisions, groups and affiliates. Exxon does not include Univation.

9. “Huntsman” means Huntsman International LLC, a limited liability company, organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its offices and principal place of business located at 500 Huntsman Way, Salt Lake City, Utah 84108, and its subsidiaries, divisions, groups, and affiliates.

10. “Ineos” means Ineos Group plc and its subsidiaries, divisions, groups and affiliates, including Ineos L.L.C., a limited liability company organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its offices and principal place of business located at 701 Poydras Street, Suite 5000, New Orleans, Louisiana 70139.

11. “Mitsui” means Mitsui Chemicals, Inc., a foreign corporation, existing and doing business under and by virtue of the laws of Japan, with offices and principal place of business located at 2-5 Kasumigaseki, 3-chome, Chiyoda-ku, Tokyo, Japan, its subsidiaries, divisions, groups and affiliates. Mitsui’s principal U.S. office is located at Mitsui Petrochemicals (America), First Interstate Bank Plaza, 1000 Louisiana, Suite 5696, Houston, Texas 77002.

12. “Albemarle” means Albemarle Corporation, a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its offices and principal place of business located at 330 South Fourth St., Richmond, Virginia 23210.

13. “Boulder Scientific” means Boulder Scientific Company, a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its offices and principal place of business located at 598 Third St., Mead, Colorado 80542.

B. “Acquirer” means any person or business that purchases the Dow Global Ethyleneamines Business, the Dow Global Ethanolamines Business, the Dow Gas Spec MDEA Business, or the Dow Gas Phase Metallocene PE Assets pursuant to this Order. Acquirer includes BP, Huntsman and/or Ineos.

C. “Acquisition” means the acquisition by Dow of assets or voting shares of Union Carbide that is reportable under the Hart-Scott-Rodino Antitrust Improvements Act.

D. “AEEA” means aminoethylethanolamines.

E. “AEEA Plant” means Dow’s AEEA production facility located at the Freeport Site.

F. “Asahi Agreement Patent Rights” means all rights conveyed to Dow, pursuant to the Joint Development Agreement, dated July 21, 1995, as amended, and the Technology Commercial Agreement, dated February 26, 1998, as amended, both between Asahi Chemical Industry Co., Ltd. and Dow, to make, use, and sell, and to sublicense any person to make, use and sell, Ethylene Polymers in a Gas Phase PE Process.

G. “BisCP Metallocene Catalyst” means Metallocene Catalyst containing in its preactivated state two Cyclic Moieties wherein for each of the Cyclic Moieties three or more adjacent atoms comprising a portion of a ring of the Cyclic Moiety are p-bonded to the same

K. “BP-Dow JDA” means the Joint Development Agreement dated January 30, 1995, by and between BP and Dow, as amended.

L. “BP-Dow Joint Development Program” means all research and development activity taken by Dow or BP, individually or jointly, pursuant to, in furtherance of, or in performance of the BP-Dow JDA.

M. “Businesses and Assets To Be Divested” means

1. the Dow Global Ethyleneamines Business;
2. the Dow Global Ethanolamines Business;
3. the Dow Gas Phase Metallocene PE Assets; and
4. the Dow Gas Spec MDEA Business.

N. “Castmate” means CASTMATE and MORMATE ceramic processing additives produced by blending ethyleneamines, latex, and water, and any other products comprising ethyleneamines and, optionally, latex and water, sold for use in the manufacture of ceramic articles as a processing additive and managed by the same persons in Freeport, Texas who manage the Dow Global Ethyleneamines Business.

O. “Catalyst Technology” means technology relating to PE Catalyst or to the production, preparation and use of PE Catalysts, PE Catalyst Support or PE Catalyst Systems.

P. “Combined Technology” means technology (including without limitation Patents and Know-How) developed in the course of the BP-Dow Joint Development Program, whether or not patentable, including all technical data and information generated individually or jointly by Dow or BP in the course of the BP-Dow Joint Development Program; all Ethylene Polymers produced in the course of the BP-Dow Joint Development Program; any individual or joint invention, improvement or discovery, whether or not patentable, which was made or conceived in the course of the BP-Dow Joint Development Program and technology developed in the course of the BP-Dow Joint Development Program for use and/or manufacture of any Combined Technology Catalyst; and all laboratory records, reports, technical data and information generated in the course of the BP-Dow Joint Development Program; excluding, however, ownership of technology developed by Dow prior to, or not in the course of, the BP-Dow Joint Development Program.

Q. “Combined Technology Catalyst” means any Metallocene Catalyst System (including activators, supports or scavenging agents) made or conceived in the course of the BP-Dow Joint Development Program, including any improvements upon Introduced Dow Metallocene Catalyst Systems, which improvements were made or conceived in the course of

the BP-Dow Joint Development Program, but excluding the Introduced Dow Metallocene Catalyst Systems.

R. “Combined Technology Patents” means all Patents claiming inventions that are Combined Technology that are owned by Dow or BP, including the patents listed in Confidential Appendix B hereto.

S. “Cyclic Moiety” means a cyclopentadienyl (C₅H₅) moiety and/or any other type of cyclic compound including, for example, but not limited to, a cyclohexadienyl moiety, a pyrolyl moiety, a phospholyl moiety, a boratabenzene moiety, etc.; wherein each of these moieties and/or compounds may be unsubstituted or substituted with anything and in any manner (including, but not limited to, ring or multi-ring structures such as indenyl, fluorenyl, or other ring structures).

T. “Dedicated Gas Phase Metallocene PE Assets” means:

1. the two agitated dry phase reactors that are owned by Dow, that have been used by Dow for testing of Metallocene Catalyst Systems in a Gas-Phase PE Process for making Ethylene Polymers, and that have been located at Freeport, Texas and Midland, Michigan; and

2. all of Dow’s rights, title and interest in the BP-Dow-Chevron Agreement, and all Dow’s rights, title and interest in all sole or joint inventions, improvements or discoveries, whether or not patentable, that were made or conceived in the course of the BP-Dow-Chevron Agreement program, including any Know-How and any Patents claiming the same, and including any improvements upon Introduced Dow Metallocene Catalyst Systems, which improvements were made or conceived in the course of the BP-Dow -Chevron Agreement program, but excluding the Introduced Dow Metallocene Catalyst Systems.

U. “Density” means density in grams per cubic centimeter as measured by the most recent version of ASTM D-1505 (as of the Effective Date of Divestiture, ASTM D-1505-98) using specimens prepared by the procedure described in ASTM D-1928, Procedure C.

V. “Divestiture Agreements” means the Huntsman Agreement, the Ineos Agreement, the BP Divestiture and License Agreement, any New Ethyleneamines Divestiture Agreement, any New Ethanolamines Divestiture Agreement, and any New Gas Spec MDEA Divestiture Agreement.

W. “Dow Appendix C Employees” means Dow Employees listed on Confidential Appendix C of this Order and such other Dow employees who, during any twelve-month period since January 1, 1995, devoted 50 work days to Combined Technology or to the BP-Dow Joint Development Program or to any combination thereof.

X. “Dow Gas Phase Metallocene PE Assets” means:

1. all Dow's rights, title and interest in the BP-Dow JDA, and all Dow's rights, title and interest in all Combined Technology, and Combined Technology Patents;
2. the Dedicated Gas Phase Metallocene PE Assets;
3. the Dow Gas Phase PE Patents;
4. all research materials, technical information, management information systems, software, inventions, specifications, designs, drawings, processes and quality control data of Dow related solely to Metallocene Technology for use in a Gas-Phase PE Process or to Dow Gas Phase PE Technology that are recorded in written or electronic form as of the date the Commission accepts this Order for public comment;
5. all interest in and to the contracts entered into in the ordinary course of business with customers (together with associated bid and performance bonds), suppliers, licensors, licensees, consignors and consignees, and rights under warranties and guarantees, express or implied of Dow related solely to Metallocene Technology for use in a Gas-Phase PE Process or to Dow Gas Phase PE Technology, except the Univation Settlement Agreement; and
6. all documents, books, records, and files, written or electronic, of Dow related solely to Metallocene Technology for use in a Gas-Phase PE Process or Dow Gas Phase PE Technology, except the Univation Settlement Agreement and information provided to Dow by or on behalf of Univation, Union Carbide, and Exxon Mobil either prior to or after the effective date of such Univation Settlement Agreement.

Y. "Dow Gas Phase PE Patents" means all Patents owned by Dow having a priority date or filing date on or before the date on which the Commission accepts this Order for

Process to make Ethylene Polymers; or (iv) Ethylene Polymers made only by such a Gas Phase PE Process.

AA. The “Dow Gas Spec MDEA Business” means all of Dow’s right, title, and interest in all assets and businesses relating to the research, development, sale, and distribution of Gas Spec MDEA in the United States and Canada, including, without limitation, the following:

1. all customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, research materials, technical information, dedicated management information systems, information contained in management information systems, rights to software, technology, know-how, ongoing research and development, specifications, designs, drawings, processes and quality control data;
2. at Acquirer’s option, and with the concurrence of the Commission, a Supply Contract pursuant to which Dow will provide to an Acquirer MDEA on commercially reasonable terms that achieve the purposes of this Order;
3. all intellectual property rights, including but not limited to Patents, Patent rights, licenses, formulas, mixes, molds, inventions, copyrights, trade secrets, know-how, trademarks, and trade names;
4. all raw material and finished product inventories and goods in process;
5. all right, title, and interest in and to the contracts (together with associated bid and performance bonds) entered into in the ordinary course of business with customers, suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees;
6. all rights under warranties and guarantees, express or implied;
7. all separately maintained, and all relevant portions of not separately maintained, books, records and files;
8. all applicable federal, state, and local regulatory agency registrations, permits, and applications, and all documents related thereto, to the extent permitted by law; and
9. all items of prepaid expense arising on or after August 1, 2000.

Provided, however, that the Dow Gas Spec MDEA Business does not include the following:

10. any plant facilities, machinery, fixtures, equipment, vehicles, transportation and storage facilities, furniture, tools, supplies, stores, spare parts, and other property (other than the laboratory and software used by the Dow Gas Spec MDEA Business)

that relate to the manufacture of MDEA and MMEA, including Dow's MDEA and MMEA manufacturing facilities;

11. intellectual property used solely for the manufacture of MDEA and MMEA;
12. real property at the Freeport Site, Plaquemine Site or any other Dow location;
13. customer lists, files, information and records for customers located outside of the United States and Canada; and
14. the assets listed in Confidential Appendix E of this Order.

Provided, however, that if Dow divests the Dow Gas Spec MDEA Business to Ineos pursuant to Paragraph IV of this Order, the definition of the Dow Gas Spec MDEA Business includes, but shall not be limited by, the assets conveyed by the Ineos Agreement.

AB. The "Dow Global Ethanolamines Business" means all of Dow's right, title, and interest in all assets and businesses in the world relating to the research, development, manufacture, sale, and distribution of Ethanolamines, including, without limitation, the following:

1. all plant facilities, machinery, fixtures, equipment, vehicles, transportation and storage facilities, furniture, tools, supplies, stores, spare parts, and other tangible personal property related to Ethanolamines and located at a facility owned and operated by Dow at Block 55 of the Plaquemine Site, as well as any easements necessary to operate these facilities as an Ethanolamines business;
2. at Acquirer's option, and with the concurrence of the Commission, a Supply Contract for EO;
3. at Acquirer's option, and with the concurrence of the Commission, a contract or contracts pursuant to which Dow will provide to an Acquirer certain services related to Ethanolamines, including one or more of the following: maintenance, environmental, liquid waste disposal, computer, safety, security, transportation, or other services related to Ethanolamines;
4. at Acquirer's option, and with the concurrence of the Commission, a contract or contracts pursuant to which Dow will provide to an Acquirer certain utilities related to Ethanolamines, including one or more of the following: water, electricity, sewer, or other utilities related to Ethanolamines;
5. a lease, license, or other rights in real property at the Plaquemine Site sufficient for the operation of the Dow Global Ethanolamines Business in the manner in

which such business has been operated in the past and as such business may be operated in the future in a manner consistent with the purposes of this Order;

6. all customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, research materials, technical information, dedicated management information systems, information contained in management information systems, rights to software, technology, know-how, ongoing research and development, specifications, designs, drawings, processes and quality control data;

7. all intellectual property rights, including but not limited to Patents, Patent rights, licenses, formulas, mixes, inventions, copyrights, trade secrets, know-how, trademarks, and trade names;

8. all raw material and finished product inventories and goods in process;

9. all right, title, and interest in and to the contracts (together with associated bid and performance bonds) entered into in the ordinary course of business with customers, suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees;

10. all rights under warranties and guarantees, express or implied;

11. all separately maintained, and all relevant portions of not separately maintained, books, records and all applicable federal, state, and local regulatory agency registrations, permits, and applications, and all documents related thereto, to the extent permitted by law; and

13. all items of prepaid expense arising on or after August 1, 2000.

Provided, however, that the Dow Global Ethanolamines Business does not include the following:

14. assets or businesses solely for the production or sale of products other than Ethanolamines including any downstream products into which Ethanolamines are an input;

15. production facilities used in manufacturing EO, including the real property underlying the Ethanolamines manufacturing facility at the Plaquemine Site; and

17. the assets listed in Confidential Appendix E of this Order.

Provided, however, that if Dow divests the Dow Global Ethanolamines Business to Ineos pursuant to Paragraph III of this Order, the definition of the Dow Global Ethanolamines Business includes, but shall not be limited by, the assets conveyed by the Ineos Agreement.

AC. The “Dow Global Ethyleneamines Business” means all of Dow’s right, title, and interest in all assets and businesses in the world relating to the research, development, manufacture, sale, and distribution of Ethyleneamines, AEEA, and Castmate, including, without limitation, the following:

1. all plant facilities, machinery, fixtures, equipment, vehicles, transportation and storage facilities, furniture, tools, supplies, stores, spare parts, and other tangible personal property related to Ethyleneamines and located at a facility owned and operated by Dow at Block A-3800 of the Freeport Site, as well as any easements necessary to operate these facilities as an Ethyleneamines business;

2. all plant facilities, machinery, fixtures, equipment, vehicles, transportation and storage facilities, furniture, tools, supplies, stores, spare parts, and other tangible personal property related to and located at the AEEA Plant at the Freeport Site, as well as any easements necessary to operate the facilities as an AEEA business;

3. a lease, license, or other rights in real property at the Freeport Site sufficient for the operation of the Dow Global Ethyleneamines Business in the manner in which such business has been operated in the past and as such business may be operated in the future in a manner consistent with the purposes of this Order;

4. at Acquirer’s option, and with the concurrence of the Commission, a Supply Contract for ethylene dichloride and caustic;

5. at Acquirer’s option, and with the concurrence of the Commission, a contract or contracts pursuant to which Dow will provide to an Acquirer certain services related to Ethyleneamines, including one or more of the following: maintenance, environmental, liquid waste disposal, computer, safety, security, transportation, and other services related to Ethyleneamines;

6. at Acquirer’s option, and with the concurrence of the Commission, a contract or contracts pursuant to which Dow will provide to an Acquirer certain utilities related to Ethyleneamines, including one or more of the following: water, electricity, sewer, and other utilities related to Ethyleneamines;

7. an option to purchase, at cost, including capital charges consistent with those charged to other Dow businesses, up to thirty (30) million pounds of Ethyleneamines annually from the Terneuzen Plant;

8. all customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, research materials, technical information, dedicated management

information systems, information contained in management information systems, rights to software, technology, know-how, ongoing research and development, specifications, designs, drawings, processes and quality control data;

9. all intellectual property rights, including but not limited to Patents, Patent rights, licenses, formulas, mixes, inventions, copyrights, trade secrets, know-how, trademarks, and trade names;

10. all raw material and finished product inventories and goods in process;

11. all right, title, and interest in and to the contracts (together with associated bid and performance bonds) entered into in the ordinary course of business with customers, suppliers, sales representatives, distributors, agents, personal property

20. a fee simple interest in any real property, including the real property underlying the Ethyleneamines, the AEEA, and the Castmate manufacturing facilities at the Freeport Site; and

21. the assets listed in Confidential Appendix F of this Order.

Provided, however, that if Dow divests the Dow Global Ethyleneamines Business to Huntsman pursuant to Paragraph II of this Order, the definition of the Dow Global Ethyleneamines Business includes, but shall not be limited by, the assets conveyed by the Huntsman Agreement.

AD. “Dow Metallocene Background Patents” means any claims in Patents owned by Dow having a priority date or filing date on or before two years after the date on which the Order becomes final which claims are directed to inventions conceived prior to the date of the Acquisition, which cover: (i) Metallocene Technology for use in a Gas Phase PE Process to make Ethylene Polymers; (ii) Metallocene Catalyst Systems or components of Metallocene Catalyst Systems for use in a Gas Phase PE Process to make Ethylene Polymers, including without limitation Introduced Dow Metallocene Catalyst Systems; (iii) a process for using Metallocene Catalyst Systems or components thereof in a Gas Phase PE Process to make Ethylene Polymers; (iv) Ethylene Polymers made by a Gas Phase PE Process; or (v) the application of Ethylene Polymers made by a Gas Phase PE Process, including without limitation the patents listed in Confidential Appendix G hereto, *provided, however,* that Dow Metallocene Background Patents do not include patent claims to chemical modifications of Ethylene Polymers, and *further provided* that Dow Metallocene Background Patents do not include Dow Metallocene Background Patents Requiring Third Party Consent or Patents acquired by Dow on or after the date of the Acquisition.

AE. “Dow Metallocene Background Patents Requiring Third Party Consent” means any claims in Patents owned by Dow that Dow cannot license to BP without securing the consent of or paying compensation to a third party (other than Univation, Exxon Mobil, or Union Carbide), having a priority date or filing date on or before two years after the date on which the Order becomes final which claims are directed to inventions conceived prior to the date of the Acquisition, which cover: (i) Metallocene Technology for use in a Gas Phase PE Process to make Ethylene Polymers; (ii) Metallocene Catalyst Systems or components of Metallocene Catalyst Systems for use in a Gas Phase PE Process to make Ethylene Polymers, including without limitation Introduced Dow Metallocene Catalyst Systems; (iii) a process for using Metallocene Catalyst Systems or components thereof in a Gas Phase PE Process to make Ethylene Polymers; (iv) Ethylene Polymers made by a Gas Phase PE Process; or (v) the application of Ethylene Polymers made by a Gas Phase PE Process, including without limitation the patents listed in Confidential Appendix H hereto, *provided, however,* that Dow Metallocene Background Patents Requiring Third Party Consent do not include patent claims to chemical modifications of Ethylene Polymers or Patents acquired by Dow on or after the date of the Acquisition.

AF. “Effective Date of Divestiture” means the date upon which Respondents close a transaction to divest or transfer relevant assets pursuant to this Order.

AG. “Enhanced Gas Phase Metallocene Licenses & Immunities” means

1. the Gas Phase Metallocene Licenses & Immunities;
2. a paid up, worldwide, irrevocable, nonexclusive license, providing

AL. “Foreign Counterpart Patents” means (i) a patent or patent application that has a common claim of priority with or claims priority from another specific patent, and (ii) commonly owned applications and patents filed in other countries claiming substantially the same subject matter as the specific patent but without a claim of priority to any prior application in another country.

AM. “Freeport Site” means Dow’s manufacturing facilities in Freeport, Texas.

AN. “Gas Phase PE Process” means a low-pressure polymerization process using any Catalyst Technology which results in Ethylene Polymer formation in the form of solid polymer particles suspended in a medium that is substantially gaseous under the conditions of the polymerization.

AO. “Gas Phase Metallocene Licenses & Immunities” means a paid up, world-wide, irrevocable, non-exclusive patent license, providing immunity from suit, for use with the Dow Gas Phase Metallocene PE Assets or other BP-owned Metallocene Technology,

1. to develop, make or have made, use, license and sell Metallocene Technology and Metallocene Catalyst Systems, or any component thereof, for use in a Gas Phase PE Process under the Dow Metallocene Background Patents;

2. to make, use, sell, offer for sale and import Ethylene Polymers made by polymerization in a Gas Phase PE Process under the Dow Metallocene Background Patents, *provided, however*, that Dow Metallocene Background Patents do not include Patent claims to chemical modifications of Ethylene Polymers;

3. to sublicense the foregoing rights to any person, without notice to or approval by Respondents; and

4. to develop or have developed, by practice of the Dow Metallocene Background Patents, technology for making Ethylene Polymers made by polymerization in a Gas Phase PE Process, including but not limited to the right to develop or have developed Combined Technology and Dow Gas Phase PE Patents.

AP. “Gas Spec MDEA” means methyldiethanolamine sold for use in treating gas streams to remove impurities, whether sold alone or blended with other chemicals.

AQ. “Huntsman Agreement” means the Amended and Restated Asset Purchase Agreement between Huntsman and Dow entered into as of August 1, 2000, calling for the sale of the Dow Global Ethyleneamines Business to Huntsman, including:

1. the Payment and Performance Guaranty Agreement;
2. the Amended and Restated Site Service Agreement;

3. the Amended and Restated Computerized Process Control Software Agreement;

4. the Amended and Restated Environmental Systems Separation and Services Agreement;

5. the Labor Services Agreement;

6. the Amended and Restated Freeport Ground Lease and License Agreement;

7. the Contract Manufacturing Agreement;

8. the Know-How License Agreement;

9. the Supply Agreement;

10. the Raw Material Supply Agreement;

11. the Exchange Agreement;

12. the Reductive Amination Technology License Agreement; and

13. the Novation Agreement.

AR. "Ineos Agreement" means the Asset Purchase Agreement between Ineos and Dow entered into on or about July 31, 2000, as amended, calling for the sale of the Dow Global Ethanolamines Business and the Dow Gas Spec MDEA Business to Ineos including:

1. Payment and Performance Guaranty;

2. the Site Service Agreement;

3. the Plaquemine Servitude Agreement;

4. the Operating Services Agreement;

5. the EO Supply Agreement;

6. the Computerized Process Control Software Agreement;

7. the GAS/SPEC Supply Agreement; and

8. the Consent Agreement, Dow and Dow Diamond.

AS. "Introduced Dow Metallocene Catalyst Systems" means Dow Metallocene Catalyst Systems provided by Dow to BP for evaluation in the BP-Dow Joint Development Program or provided by Dow to Chevron or BP for evaluation in accordance with the BP-Dow-Chevron Agreement.

AT. "Know-How" means all technological, technical, scientific, chemical, biological, regulatory and marketing materials and information used to develop, make, use, sell, offer for sale, import or seek regulatory approval in any country to market, make, use, sell, offer for sale, or import a product, including without limitation all: formulae; trade secrets; inventions; techniques; intellectual property whether or not patentable; discoveries; compounds; and compositions of matter; research data; technical data and information; testing data; regulatory files; statistical analyses; analytical data; specifications; designs; drawings; processes; testing and quality assurance/quality control data; manufacturing data and information; regulatory submissions; and any other information and experience, whether recorded on paper or electronically.

AU. "MDEA" means methyldiethanolamine.

AV. "Metallocene Catalyst" means an organometallic compound containing at least one Cyclic Moiety wherein three or more adjacent atoms comprising a portion of a ring of the Cyclic Moiety are p-bonded to a metal atom and the three or more adjacent atoms are within normal bonding distance of the metal atom.

AW. "Metallocene Catalyst System" means any Metallocene Catalyst or any combination of any Metallocene Catalyst and any activator, scavenging agent or PE Catalyst Support.

AX. "Metallocene Catalyst Technology" means all Patents and Know-How pertaining to the manufacture, use or sale of Metallocene Catalyst Systems useful in the manufacture of Ethylene Polymers, including, but not limited to, recipes, manufacturing procedures, synthesis techniques and supports.

AY. "Metallocene Process Technology" means all Patents and Know-How pertaining to the manufacture of Ethylene Polymers (specifically excluding solution and slurry process technology) including, but not limited to, feed specifications; operating conditions; control procedures; start-up, shutdown, and transitioning procedures; and any equipment requirements applicable where a Metallocene Catalyst is used.

AZ. "Metallocene Product Technology" means all Patents and Know-How pertaining to Ethylene Polymers, including, but not limited to, structure-property relationships, use of product additives, processing (such as extrusion, molding and film fabrication techniques) to convert Ethylene Polymers into end use form, and end-use applications.

BA. "Metallocene Technology" means Metallocene Catalyst Technology, Metallocene Process Technology and Metallocene Product Technology.

BB. “Mitsui License Agreement Patent Rights” means all rights under all Patent claims and Patents of Mitsui conveyed to Dow, or any rights that would have been available to a Licensing Entity to be established by Dow and BP, for sublicensing of Ethylene Polymers made with Metallocene Catalyst Systems in a Gas Phase PE Process pursuant to the Patent

MDEA Business by any Acquirer after such business is divested pursuant to Paragraphs II, III, IV, or X of this Order. Non-Public Confidential Information shall not include: (1) information that is public knowledge at the date of receipt by Dow, or that prior to Dow's use of such information, becomes public knowledge through no act or failure to act on the part of Dow; (2) information which Respondents develop independently and without using, directly or indirectly, any information obtained from any current or former agents or employees of Dow whose duties related directly to the Dow Global Ethyleneamines Business, the Dow Global Ethanolamines Business, or the Dow Gas Spec MDEA Business; (3) information which subsequently becomes known to Respondents from a third party not in breach of a confidentiality obligation; (4) information that has uses or applications in Respondents' other businesses and is not competitively significant to the Dow Global Ethyleneamines Business, the Dow Global Ethanolamines Business, or the Dow Gas Spec MDEA Business; and (5) information that is conveyed or licensed to Respondents under the Huntsman Agreement, the Ineos Agreement, any New Ethyleneamines Divestiture Agreement, any New Ethanolamines Divestiture Agreement, or any New Gas Spec MDEA Divestiture Agreement.

BI. "Patents" mean all patents, patents pending, patent applications and statutory invention registrations, including reissues, divisions, continuations, continuations-in-part, supplementary protection certificates, extensions and reexaminations thereof, all inventions, claimed or which may later be claimed therein, all rights therein provided by international treaties and conventions, and all rights to obtain and file for patents and registrations thereto in the world.

BJ. "PE Catalyst" means supported and unsupported catalyst components for use in production of Ethylene Polymers.

BK. "PE Catalyst Support" means preformed support components or support carriers for use with PE Catalysts.

BL. "PE Catalyst Systems" means combinations of PE Catalyst and PE Catalyst Support or activator component designed, developed, used, or suitable for use for the production of Ethylene Polymers.

BM. "PE Technology" means technology relating to Ethylene Polymers, to the production and use thereof, and to the preparation and use of Catalyst Systems.

BN. "Plaquemine Site" means Dow's manufacturing facilities in Plaquemine, Louisiana.

BO. "Respondents' Ethanolamines Business" means the worldwide ethanolamines business conducted by Respondents after the Dow Global Ethanolamines Business is divested pursuant to Paragraph III or Paragraph X of this Order, including all employees, officers, directors, and agents of Respondents whose duties relate to Respondents' Ethanolamines Business.

BP. “Respondents’ Ethyleneamines Business” means the worldwide ethyleneamines business conducted by Respondents after the Dow Global Ethyleneamines Business is divested pursuant to Paragraph II or Paragraph X of this Order, including all employees, officers, directors, and agents of Respondents whose duties relate to Respondents’ Ethyleneamines Business.

BQ. “Respondents’ MDEA Business” means the worldwide MDEA business conducted by Respondents after the Dow Gas Spec MDEA Business is divested pursuant to Paragraph IV or Paragraph X of this Order, including all employees, officers, directors, and agents of Respondents whose duties relate to Respondents’ MDEA Business.

BR. “Respondents’ Support Contact” means Respondents’ designee under Paragraph V of this Order.

BS. “Respondents’ Support Personnel” means Respondents’ employees who are: (i) responsible for providing services and inputs to the Dow Global Ethyleneamines Business, the Dow Global Ethanolamines Business, or the Dow Gas Spec MDEA Business after such businesses are divested pursuant to paragraphs II, III, IV, or X of this Order, and (ii) exposed to competitively sensitive information relating to the Dow Global Ethyleneamines Business, the Dow Global Ethanolamines Business, or the Dow Gas Spec MDEA Business, including, but not limited to information about cost, price, quantity, customers, product specifications, terms of sale, production planning/forecasting and communications with the Acquirers of such businesses.

BT. “Supplemental Univation Patent Rights” means the following rights:

1. a royalty free, nonexclusive, irrevocable, worldwide (except for Korea and Japan, which restriction expires on December 31, 2004) license within the Univation Field, with the right to sublicense, under U.S. Patent Nos. 5,405,922 and 5,462,999 (including all U.S. divisionals, continuations, continuations-in-part, reissues or reexaminations that are pending on or after January 1, 2001), European Patent No. 89691 and any Foreign Counterpart Patents to make, have made, offer for sale, sell, import, or use MonoCP Metallocene Catalysts; *provided, however*, that no rights are granted under U.S. Patent Nos. 5,405,922 and 5,462,999 and European Patent No. 89691 and their Foreign Counterpart patents to make, have made, offer for sale, sell, import or use BisCP Metallocene Catalysts and no rights are granted for any mixed PE Catalyst Systems that contain BisCP Metallocene Catalysts;

2. a royalty free, nonexclusive, irrevocable, worldwide license within the Univation Field to practice under any claim in any Exxon or Univation Patent that would be licensed to Dow or Dow Affiliates under the Univation Settlement Agreement but for the inclusion in the claim of “Catalyst Support Technology,” as “Dow Affiliates” and “Catalyst Support Technology” are used in the Univation Settlement Agreement;

3. a royalty free, nonexclusive, irrevocable, worldwide license within the Univation Field, with a right to sublicense to resin producers of MPE Resins made with MonoCP Metallocene Catalysts licensed by BP to use MonoCP Metallocene Catalysts (i) under every patent claim that Univation was, is or will be empowered to grant at any time from December 4, 2000 until the date of the Acquisition, and (ii) under every patent claim that Univation would have been empowered to grant if such patent claim existed as of the date of the Acquisition but only for any patent claim that is included in a patent application filed on or before June 15, 2001, or that claims priority in whole or part from a patent application filed on or before June 15, 2001, for each such patent claim covering either:

- (a) a polymer composition or article where a MPE Resin satisfies all the limitations of one or more claimed components of the composition or article recited in the patent claim;
- (b) an end use for a MPE Resin; or
- (c) an application for a MPE Resin;

where such patent claim is in a patent or patent application (including reissues or reexaminations of such patents) owned or controlled by Univation (which includes Union Carbide and Exxon Mobil patents). Any use rights granted by BP pursuant to this subsection to a resin producer shall be extendible by such resin producer to its customers for use with these MPE Resins. The rights to be granted to BP pursuant to this subsection shall only apply where each of the following conditions are met: (i) one or more MonoCP Metallocene Catalysts (but in no event any BisCP Metallocene Catalysts) are used in a Gas Phase Process to make those MPE Resins present in the polymer composition, article, end use or application; and (ii) the presence of such MPE Resins made with MonoCP Metallocene Catalyst or MonoCP Metallocene Catalysts in such polymer, composition, end use, article or application satisfies at least one limitation in the patent claim directed to a polymer composition or article or a material element of the patent claims to an end use or application. Nothing in this subsection shall be construed to grant rights or a license to a composition, end use, article or application where MPE Resins are present merely to present a defense to patent infringement. The rights to be granted in accordance with this subsection are limited to patent claims expressly requiring Ethylene Polymers in the field of the Univation venture (as provided in the Univation Reorganization Agreement), polymer compositions or end uses, regardless of whether or not the patent claim recites a limitation to Metallocene Catalysts. No additional rights are granted to or to be implied in any patented processes, operations or equipment for producing an Ethylene Polymer, or for components of catalysts; and

4. a royalty free, nonexclusive, irrevocable, worldwide license with a right to sublicense, under Univation LCB Patents to make, have made, offer for sale, sell, import and use MPE Resins within the Univation Field made with MonoCP

Metallocene Catalysts; *provided, however*, that no rights are granted to make, have made, offer for sale, sell, import or use MPE Resins made using BisCP Metallocene Catalysts and no rights are granted for any mixed PE Catalyst Systems that contain BisCP Metallocene Catalysts.

BU. “Supply Contract” means a contract by which Dow sells, swaps, toll manufactures, converts, transfers, or otherwise provides an Acquirer with inputs, products, or other materials at the Freeport Site or the Plaquemine Site in connection with the Dow Global Ethyleneamines Business, the Dow Global Ethanolamines Business, or the Dow Gas Spec MDEA Business.

BV. “Support Personnel for the Dow Gas Phase Metallocene PE Assets” means employees of Dow who (1) are responsible for providing services to BP under a research service agreement negotiated pursuant to the BP Divestiture and License Agreement and (2) are exposed to competitively sensitive information relating to the Dow Gas Phase Metallocene PE Assets.

BW. “Terneuzen Plant” means Dow’s existing Ethyleneamines plant, including any terminals Dow uses as storage facilities or for raw materials, in Terneuzen, The Netherlands.

BX. “Unipol Process Technology for Ethylene Polymers” and “Unipol Gas Phase PE Process” mean all Patents and Know-How owned or controlled by Union Carbide within the field of the Univation venture (as provided in the Univation Reorganization Agreement) in a Gas-Phase PE Process pertaining to the production of Ethylene Polymers.

BY. “Unipol Gas Phase PE Technology Business” means: (i) the Union Carbide business for the licensing and sale of Unipol Process Technology for Ethylene Polymers within the field of the Univation venture (as provided in the Univation Reorganization Agreement), including the right to sublicense others, and all administrative, management, and research and development responsibilities relating thereto; *provided, however*, that to the extent agreed by Respondents and Exxon Mobil in the Univation Reorganization Agreement, “Unipol Gas Phase PE Process Technology Business” does not include the right to receive lump sum, running royalties, fees, or other licensing income under license and technology purchase agreements signed before August 8, 1996, and (ii) the Union Carbide business for the sale to third parties of PE Catalyst Systems for Ethylene Polymers within the field of the Univation venture (as provided in the Univation Reorganization Agreement) by Union Carbide that is not part of Univation as of the date on which the Commission accepts for public comment the Agreement Containing Consent Order, including the exclusive right to sell and sub-license such PE Catalyst Systems to third parties, and all administrative, management, and research and development responsibilities for such PE Catalyst Systems; *provided, however*, that to the extent agreed by Respondents and Exxon Mobil in the Univation Reorganization Agreement, the “Unipol Gas Phase PE Technology Business” does not include (a) the manufacturing assets owned by Union Carbide that produce PE Catalysts and PE Catalyst Systems; or (b) the right to receive lump sum, running royalty, fees, purchase price, lease price, or other income for the sale of conventional PE Catalyst Systems

to Univation pursuant to the Univation Reorganization Agreement or to licensees who will continue to pay lump sum, running royalty fees, or other licensing income to Union Carbide rather than Univation under license and technology purchase agreements signed before August 8, 1996.

BZ. “Univation Field” means, for purposes of this Order, (1) development, manufacture, marketing and sale of Metallocene Catalyst Systems to make MPE Resins in a

extent Univation must obtain the agreement of or account to a third party, Univation shall use good faith efforts (Univation need not offer value to the third party unless BP reaches agreement with Univation on reimbursement) to obtain the relevant rights for BP from the third party.

CB. “Univation Reorganization Agreement” means the Univation Reorganization Agreement dated December 4, 2000, by and among Exxon Mobil, Dow, Union Carbide, and Univation, as amended.

CC. “Univation Settlement Agreement” means the Settlement Agreement between Dow and Univation dated June 15, 1999, as amended.

CD. “Univation Settlement Patent Rights” means all rights under all patent claims of Univation conveyed to Dow to make MPE Resins in a Gas-Phase PE Process, and to use, and sell such MPE Resins, and right to sub-license, pursuant to the Univation Settlement Agreement, as amended by the Univation Reorganization Agreement to provide sub-licensing rights to BP.

II.

IT IS FURTHER ORDERED that:

A. Dow shall divest, absolutely and in good faith, at no minimum price, the Dow Global Ethyleneamines Business as an ongoing business.

B. The divestiture shall be made to Huntsman no later than ten (10) days after the date on which this Order becomes final, in accordance with the Huntsman Agreement (which agreement shall not vary or contradict the terms of this Order or the Order to Maintain Assets). *Provided, however*, that if, at the time the Commission determines to make the Order final, the Commission notifies Respondents that Huntsman is not an acceptable acquirer, or the Huntsman Agreement is not an acceptable manner of divestiture, then Dow shall immediately rescind the transaction with Huntsman and shall divest the Dow Global Ethyleneamines Business, within six (6) months after the date on which the Order becomes final, to an Acquirer that receives the prior approval of the Commission, and only in a manner that receives the prior approval of the Commission.

C. The purpose of the divestiture of the Dow Global Ethyleneamines Business is to ensure the continued operation of the Dow Global Ethyleneamines Business in the same businesses in which the assets and businesses of the Dow Global Ethyleneamines Business are engaged at the time of the Acquisition, and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint.

D. Pending divestiture of the Dow Global Ethyleneamines Business, Dow shall take such actions as are necessary to maintain the viability and marketability of the Dow Global

Ethyleneamines Business and to prevent the destruction, removal, wasting, deterioration, or impairment of any of the Dow Global Ethyleneamines Business, except for ordinary wear and tear.

E. Dow shall comply with all terms of the Order to Maintain Assets, attached to this Order and made a part hereof as Appendix A. The Order to Maintain Assets shall continue in effect until such time as Dow has divested each of the Businesses and Assets to be Divested as required by this Order.

F. Respondents shall use Non-Public Confidential Information relating to the Dow Global Ethyleneamines Business only (i) in the performance of Respondents' obligations under this Order or the Huntsman Agreement or any New Ethyleneamines Divestiture Agreement; or (ii) for the purpose of complying with Respondents' financial, tax reporting, legal, health, safety, and environmental obligations.

G. Respondents shall not, absent the prior written consent of an Acquirer of the Dow Global Ethyleneamines Business, provide, disclose or otherwise make available any Non-Public Confidential Information relating to the Dow Global Ethyleneamines Business to persons who are not Respondents' Support Personnel for the Dow Global Ethyleneamines Business, except for the purpose of complying with Respondents' financial, tax reporting, legal, health, safety and environmental obligations.

H. Respondents shall comply with the terms of the Huntsman Agreement (if Respondents divest pursuant to the Huntsman Agreement) or the New Ethyleneamines Divestiture Agreement (if Respondents, or a trustee, divest pursuant to Paragraph II or Paragraph X of this Order to an Acquirer other than Huntsman), which terms are incorporated by reference into this Order, and made a part hereof. Any failure by Respondents to comply with the Huntsman Agreement or the New Ethyleneamines Divestiture Agreement shall constitute a failure to comply with this Order.

III.

IT IS FURTHER ORDERED that:

A. Dow shall divest, absolutely and in good faith, at no minimum price, the Dow Global Ethanolamines Business as an ongoing business.

B. The divestiture shall be made to Ineos no later than ten (10) days after the date on which this Order becomes final, in accordance with the Ineos Agreement (which agreement shall not vary or contradict the terms of this Order or the Order to Maintain Assets). *Provided, however*, that if, at the time the Commission determines to make the Order final, the Commission notifies Respondents that Ineos is not an acceptable acquirer, or

the Ineos Agreement is not an acceptable manner of divestiture, then Dow shall immediately rescind the transaction with Ineos and shall divest the Dow Global Ethanolamines Business, within six (6) months after the date on which the Order becomes final, to an acquirer that receives the prior approval of the Commission, and only in a manner that receives the prior approval of the Commission.

C. The purpose of the divestiture of the Dow Global Ethanolamines Business is to ensure the continued operation of the Dow Global Ethanolamines Business in the same businesses in which the assets and businesses of the Dow Global Ethanolamines Business are engaged at the time of the Acquisition, and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint.

D. Pending divestiture of the Dow Global Ethanolamines Business, Dow shall take such actions as are necessary to maintain the viability and marketability of the Dow Global Ethanolamines Business and to prevent the destruction, removal, wasting, deterioration, or impairment of any of the Dow Global Ethanolamines Business, except for ordinary wear and tear.

E. Dow shall comply with all terms of the Order to Maintain Assets, attached to this Order and made a part hereof as Appendix A. The Order to Maintain Assets shall continue in effect until such time as Dow has divested each of the Businesses and Assets to be Divested as required by this Order.

F. Respondents shall use Non-Public Confidential Information relating to the Dow Global Ethanolamines Business only (i) in the performance of Respondents' obligations under this Order or the Ineos Agreement or any New Ethanolamines Divestiture Agreement; or (ii) for the purpose of complying with Respondents' financial, tax reporting, legal, health, safety, and environmental obligations.

G. Respondents shall not, absent the prior written consent of an Acquirer of the Dow Global Ethanolamines Business provide, disclose or otherwise make available any Non-Public Confidential Information relating to the Dow Global Ethanolamines Business to persons who are not Respondents' Support Personnel for the Dow Global Ethanolamines Business, except for the purpose of complying with Respondents' financial, tax reporting, legal, health, safety and environmental obligations.

H. Respondents shall comply with the terms of the Ineos Agreement (if Respondents divest pursuant to the Ineos Agreement) or the New Ethanolamines Divestiture Agreement (if Respondents, or a trustee, divest pursuant to Paragraph III or Paragraph X of this Order to an Acquirer other than Ineos), which terms are incorporated by reference into this Order, and made a part hereof. Any failure by Respondents to comply with the Ineos Agreement or the New Ethanolamines Divestiture Agreement shall constitute a failure to comply with this Order.

IV.

IT IS FURTHER ORDERED that:

A. Dow shall divest, absolutely and in good faith, at no minimum price, the Dow Gas Spec MDEA Business as an ongoing business.

B. The divestiture shall be made to Ineos no later than ten (10) days after the date on which this Order becomes final, in accordance with the Ineos Agreement (which agreement shall not vary or contradict the terms of this Order or the Order to Maintain Assets). *Provided, however*, that if, at the time the Commission determines to make the Order final, the Commission notifies Respondents that Ineos is not an acceptable acquirer, or the Ineos Agreement is not an acceptable manner of divestiture, then Dow shall immediately rescind the transaction with Ineos and shall divest the Dow Gas Spec MDEA Business, within six (6) months after the date on which the Order becomes final, to an acquirer that receives the prior approval of the Commission, and only in a manner that receives the prior approval of the Commission.

C. The purpose of the divestiture of the Dow Gas Spec MDEA Business is to ensure the continued operation of the Dow Gas Spec MDEA Business, and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint.

D. Pending divestiture of the Dow Gas Spec MDEA Business, Dow shall take such actions as are necessary to maintain the viability and marketability of the Dow Gas Spec MDEA Business and to prevent the destruction, removal, wasting, deterioration, or impairment of any of the Dow Gas Spec MDEA Business except for ordinary wear and tear.

E. Respondents shall use Non-Public Confidential Information relating to the Dow Gas Spec MDEA Business only (i) in the performance of Respondents' obligations under this Order or the Ineos Agreement or any New Gas Spec MDEA Divestiture Agreement; or (ii) for the purpose of complying with Respondents' financial, tax reporting, health, safety, and environmental obligations.

F. Respondents shall not, absent the prior written consent of an Acquirer of the Dow Gas Spec MDEA Business, provide, disclose or otherwise make available any Non-Public Confidential Information relating to the Dow Gas Spec MDEA Business to persons who are not Respondents' Support Personnel for the Dow Gas Spec MDEA Business, except for the purpose of complying with Respondents' financial, tax reporting, legal, health, safety and environmental obligations.

G. Dow shall comply with all terms of the Order to Maintain Assets, attached to this

Order and made a part hereof as Appendix A. The Order to Maintain Assets shall continue in effect until such time as Dow has divested each of the Businesses and Assets to be Divested as required by this Order.

H. Respondents shall comply with the terms of the Ineos Agreement (if Respondents divest pursuant to the Ineos Agreement) or the New Gas Spec MDEA Divestiture Agreement (if Respondents, or a trustee, divest pursuant to Paragraph IV or Paragraph X of this Order to an Acquirer other than Ineos), which terms are incorporated by reference into this Order, and made a part hereof. Any failure by Respondents to comply with the Ineos Agreement or the New Gas Spec MDEA Divestiture Agreement shall constitute a failure to comply with this Order.

V.

IT IS FURTHER ORDERED that within thirty (30) days from the date on which the Respondents sign the Consent Agreement:

A. Respondents shall take steps to ensure that all of Respondents' Support Personnel comply with Paragraphs II, III, and IV of this Order. Such steps shall include, without limitation:

1. distribution of this Order to Respondents' Support Personnel, and to the agents and employees of Respondents' Ethyleneamines Business, Respondents' Ethanolamines Business, and Respondents' MDEA Business;
2. development of procedures, policies, and practices relating to the receipt, identification, custody, use, and disposal of any Non-Public Confidential Information;
3. dissemination of such procedures, policies, and practices;
4. periodic in-person training of initial and future Respondents' Support Personnel;
5. periodic in-person training of agents and employees of Respondents' Ethyleneamines Business, Respondents' Ethanolamines Business, and Respondents' MDEA Business;
6. development of new procedures, or incorporation of procedures into existing measures, to be used in the event Respondents' Support Personnel fail to comply with Respondents' obligations under this Order, such procedures sufficient to create reasonable incentives for such personnel to perform Respondents' obligations in good faith and to deter such personnel from failing to perform Respondents' obligations; and

7. development of new procedures, or incorporation of procedures into existing measures, to deter agents and employees of Respondents' Ethyleneamines Business, Respondents' Ethanolamines Business, and Respondents' MDEA Business from receiving, retaining, or using any Non-Public Confidential Information.

B. Respondents shall designate a person, whose duties both at the time of such person's initial designation and for the duration of this Order, do not include responsibility for or participation in Respondents'

Immunities, in accordance with the BP Divestiture and License Agreement (which agreement shall not vary or contradict the terms of this Order), and

2. With respect to each Dow Metallocene Background Patent Requiring Third Party Consent, (a) use best efforts to obtain any third party consent needed to grant to BP a license and immunity to such Dow Metallocene Background Patent Requiring Third Party Consent at least as broad as that granted to Gas Phase Metallocene Licenses & Immunities that do not require such consent; and (b) promptly (i) identify to BP each party whose consent is required; (ii) disclose to BP all rights and obligations of Dow and the third party with respect to the Patent; (iii) with respect to BP and its licensees, waive its claims of confidentiality or secrecy and all of its contract rights (exclusivity, noncompetition or other) limiting BP's use of the Patent; and (iv) cooperate and assist BP in securing the license and immunity; *provided, however*, that Dow may limit any waiver with respect to disclosure of confidential information to information relevant to Metallocene Technology for production of Ethylene Polymers through a Gas Phase PE Process, and *provided further*, that Dow may pass on to BP the obligation to pay a royalty or fee to the third party.

C. The divestiture of the Dow Gas Phase Metallocene PE Assets, and the grant of the Enhanced Gas Phase Metallocene Licenses & Immunities, shall be made to BP within three (3) days after the Commission accepts the Order for public comment, as to all intellectual property rights, and within thirty (30) days after the Commission accepts the Order for public comment, as to all tangible assets, in accordance with the BP Divestiture and License Agreement (which agreement shall not vary or contradict the terms of this Order or the Order to Maintain Assets), *provided, however*, that as consideration for the grant of the Enhanced Gas Phase Metallocene Licenses & Immunities, BP may agree to grant to Univation certain licenses with sublicensing rights in accordance with the BP Divestiture and License Agreement and the Univation Reorganization Agreement, including without limitation licenses with sublicensing rights under Dow's Metallocene Background Patents and Dow's Gas Phase PE Patents.

D. Respondents shall use BP Confidential Information relating to the Dow Gas Phase Metallocene PE Assets only (a) in the performance of Respondents' obligations under this Order or the BP Divestiture and License Agreement, (b) for the purpose of complying with Respondents' financial, tax reporting, legal, health, safety, and environmental obligations, or (c) as permitted by license or other written agreement with, or written consent from, BP. Respondents shall not, absent the prior written consent of BP, provide, disclose or otherwise make available any BP Confidential Information to persons who are not Support Personnel for the Dow Gas Phase Metallocene PE Assets, except as permitted in the preceding sentence.

E. Respondents shall comply with the terms of the BP Divestiture and License Agreement, which terms are incorporated by reference into this Order, and made a part

hereof. Any failure by Respondents to comply with the BP Divestiture and License Agreement shall constitute a failure to comply with this Order.

F. Dow shall, to the extent requested by BP, upon the divestiture of the Dow Gas Phase Metallocene PE Assets: (i) disclose and provide to BP on a nonexclusive basis, all research materials, technical information, management information systems, software, inventions, specifications, designs, drawings, processes and quality control data of Dow related to Metallocene Technology for use in a Gas-Phase PE Process or to Dow Gas Phase PE Technology to the extent that any of the foregoing are recorded in research notebooks, written memoranda, or electronic form as of the date the Commission accepts this Order for public comment, (ii) disclose and provide to BP on a nonexclusive basis, all documents, books, records, and files of Dow related to Metallocene Technology for use in a Gas-Phase PE Process or to Dow Gas Phase PE Technology to the extent that any of the foregoing are recorded in research notebooks, written memoranda, or electronic form as of the date the Commission accepts this Order for public comment, except the Univation Settlement Agreement and information provided to Dow by or on behalf of Univation, Exxon Mobil, or Union Carbide either prior to or after the effective date of such Univation Settlement Agreement; and (iii) make available to BP on a nonexclusive basis rights under contracts entered into in the ordinary course of business with customers (together with associated bid and performance bonds), suppliers, licensors, licensees, consignors and consignees, and rights under warranties and guarantees, express or implied of Dow related to Metallocene Technology for use in a Gas-Phase PE Process.

G. Upon execution of the BP Divestiture and License Agreement, Dow shall make available for inspection by BP, to the extent permissible under applicable laws, the personnel files and other documentation relating to Dow Appendix C Employees, as requested by BP within one year after execution of the BP Divestiture and License Agreement.

H. Dow shall provide BP with the opportunity to hire or enter into employment contracts with Dow Appendix C Employees; Dow shall not interfere with the hiring or employing by BP of Dow Appendix C Employees; Dow shall not offer any incentive to such employees to decline employment with BP or to accept other employment with Respondents; Dow shall not make any counteroffer to any such employee who receives a written offer of employment from BP; and Dow shall remove any impediments that may deter such employees from accepting employment with BP, including, but not limited to, waiver of any non-compete or confidentiality provisions of employment contracts that would affect the ability or incentive of any such individual to be employed by BP; *provided, however*, that Dow may limit any waiver with respect to disclosure of confidential information to information relevant to Metallocene Technology for production of MPE Resin through a Gas-Phase PE Process and to information that does not waive obligations of Dow to third parties other than Exxon Mobil and Univation.

I. Dow shall provide all Dow Appendix C Employees with reasonable financial incentives to continue in their positions until completion of the divestiture of the Dow Gas Phase Metallocene PE Assets. Such incentives shall include a continuation of all employee

benefits offered by Dow until the divestiture has been completed, including regularly scheduled raises and bonuses, and a vesting of all pension benefits (as permitted by law). In addition, Dow shall provide to each such employee to whom BP extends a written offer of employment incentives to accept employment with BP within ninety days following the completion of the divestiture. Such incentives shall include payment by Dow for the benefit of the employees of all accrued bonuses, pensions and other accrued benefits to which such employees are entitled as of the date of the divestiture. Dow shall not impose any loss of pension benefits on employees hired by BP to which such employees are entitled, at the time of consummation of the Acquisition, under Respondents' pension plans as administered under ERISA.

J. During the one-year period following the divestiture, Respondents shall not, directly or indirectly, hire, attempt to hire, or enter into any arrangement for the services of any former Dow employees hired or employed by BP that have any amount of responsibility relating to the Dow Gas Phase Metallocene PE Assets, unless the individual's employment has been terminated by BP.

K. Respondents shall not use, nor assist Univation or Exxon in using, any BP Confidential Information for the purpose of filing, prosecuting, encouraging, supporting, or inducing any patent infringement action against BP or its licensees by any person, including Respondents.

L. Respondents shall not disclose to any third party, Univation or Exxon, any BP Confidential Information without the prior consent of BP, except for the purpose of complying with Respondents' financial, tax reporting, legal, health, safety and environmental obligations.

M. Respondents shall not permit:

1. Any Dow employee listed in Category 1 of Confidential Appendix I to participate or direct any research or other activity by Dow, Union Carbide or Univation for the purpose of development, improvement or discovery of MPE Resins in a Unipol Gas Phase PE Process for one year from the date on which the Commission accepts this Order for public comment; and

2. Any Dow employee listed in Category 2 of Confidential Appendix I to participate or direct any research or other activity by Dow, Union Carbide or Univation for the purpose of development, improvement or discovery of MPE Resins (i) in a Unipol Gas Phase PE Process for two years from the date on which the Commission accepts this Order for public comment; or (ii) in a slurry loop process for one year from the date on which the Commission accepts this Order for public comment.

N. Dow shall, upon the divestiture of the Dow Gas Phase Metallocene PE Assets, (i) identify to BP every supplier to Dow of Introduced Dow Metallocene Catalyst Systems, Combined Technology Catalyst, and components thereof, (ii) expressly authorize each such

supplier (including without limitation Albemarle and Boulder Scientific) notwithstanding any confidentiality, non-compete, or exclusivity agreement with Dow, to develop, manufacture, and supply Metallocene Catalyst Systems and components thereof to BP for use in a Gas Phase PE Process, as requested by BP, and to enter into confidentiality agreements with BP regarding such development, manufacture, or supply; and (iii) as required by BP, assist and facilitate BP in securing supplies of Metallocene Catalyst Systems for BP and its licensees for use in a Gas Phase PE Process.

O. The purpose of the divestiture of the Dow Gas Phase Metallocene PE Assets, and of the further remedies provided for in this Paragraph VI, is to ensure the continued operation of the Dow Gas Phase Metallocene PE Assets in the same businesses in which the Dow Gas Phase Metallocene PE Assets are engaged at the time of the Acquisition; to ensure that BP (or such other Acquirer as the Commission may approve) is a viable and competitive participant in the markets for licensing PE Technology and Metallocene Catalyst Systems, and for the development of PE Technology and Metallocene Catalyst Systems; and to remedy the lessening of competition resulting from the Acquisition, as alleged in the Commission's complaint.

VII.

IT IS FURTHER ORDERED that:

A. At the time of consummation of the Acquisition, Respondents shall contribute the Unipol Gas Phase PE Technology Business to Univation.

B. At the time of consummation of the Acquisition, Respondents shall grant to Univation, with the right to sublicense others, the Unipol Process Technology for Ethylene Polymers, and shall provide that upon termination or dissolution of Univation, at any time and for any reason or no reason, or transfer of control or any equity interest in Univation from Exxon Mobil to Respondents, Exxon (or Exxon's successor in interest other than Respondents) shall retain nonexclusive rights to the Unipol Process Technology for Ethylene Polymers and to all technology owned or controlled by Univation, including the right to sublicense to others, and to develop, use or license Unipol Process Technology for Ethylene Polymers with any PE Catalyst Systems, any agreement between Respondents and Exxon to the contrary notwithstanding.

C. Respondents shall not require Exxon to make royalty payments to Univation for Metallocene Catalyst Technology in an amount exceeding Respondents' royalty payments to Univation for Metallocene Catalyst Technology, calculated on a calendar year basis.

D. Dow, when it becomes part owner of Univation, shall support and use its best efforts (including without limitation by vote of its management, directors or shares) (i) to assure that Univation takes no action inconsistent with Respondents' obligations under this

Order, and (ii) in support of any proposal by Exxon Mobil to expand the Univation Field to include Density down to 0.900 grams per cubic centimeter.

VIII.

IT IS FURTHER ORDERED that Respondents shall comply with all terms of the Order to Maintain Assets, attached to this Order and made a part hereof as Appendix A, which Order shall continue in effect until such time as Respondents have divested each of the Businesses and Assets To Be Divested as required by this Order.

IX.

IT IS FURTHER ORDERED that:

A. At any time after Respondents sign the Consent Agreement, the Commission may appoint one or more Persons to serve as Monitor Trustee to monitor Respondents' compliance with the terms of this Order and the Divestiture Agreement(s) made a part of this Order.

B. If one or more Monitor Trustees are appointed pursuant to Paragraph IX.A. of this Order, Respondents shall consent to the following terms and conditions regarding the powers, duties, authorities, and responsibilities of each Monitor Trustee:

1. The Commission shall select the Monitor Trustee, 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 trustee within ten (10) business days after notice by the staff of the Commission to Respondents of the identity of any proposed trustee, Respondents shall be deemed to have consented to the selection of the proposed trustee.

2. The Monitor Trustee shall have the power and authority to monitor Respondents' compliance with the terms of this Order and the Divestiture Agreement(s) and shall exercise such power and authority and carry out the duties and responsibilities of the Monitor Trustee in a manner consistent with the purposes of this Order and in consultation with the Commission.

3. Within ten (10) days after appointment of the Monitor Trustee, Respondents shall execute an agreement that, subject to the approval of the Commission, confers on the Monitor Trustee all the rights and powers necessary to permit the Monitor Trustee to monitor Respondents' compliance with the terms of this Order and the relevant Divestiture Agreement(s) in a manner consistent with the purposes of this Order. Respondents may require the Monitor Trustee to sign a confidentiality agreement prohibiting the use, or disclosure to anyone other than the Commission, of any

competitively sensitive or proprietary information gained as a result of his or her role as Monitor Trustee.

4. The Monitor Trustee shall serve until the earlier of: (i) the expiration of this Order pursuant to Paragraph XIV; or (ii) the expiration of all the terms that comprise the Divestiture Agreement(s).

5. The Monitor Trustee shall have full and complete access to Respondents' books, records, documents, personnel, facilities and technical information relating to compliance with this Order and the Divestiture Agreement(s), or to any other relevant information, as the Monitor Trustee may reasonably request. Respondents shall cooperate with any reasonable request of the Monitor Trustee. Respondents shall take no action to interfere with or impede the Monitor Trustee's ability to monitor Respondents' compliance with this Order and the Divestiture Agreement(s).

6. The Monitor Trustee 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 Trustee 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 Trustee's duties and responsibilities. The Monitor Trustee shall account for all expenses incurred, including fees for his or her services, subject to the approval of the Commission.

7. Respondents shall indemnify the Monitor Trustee and hold the Monitor Trustee harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the Monitor Trustee's duties (including the duties of the Monitor Trustee's employees), 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, willful or wanton acts, or bad faith by the Monitor Trustee.

8. If at any time the Commission determines that the Monitor Trustee has ceased to act or failed to act diligently, or is unwilling or unable to continue to serve, the Commission may appoint a substitute to serve as Monitor Trustee in the same manner as provided in this Paragraph IX.

9. The Commission may on its own initiative or at the request of the Monitor Trustee issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of this Order and the Divestiture Agreement(s).

10. The Monitor Trustee shall report in writing to the Commission concerning Respondents' compliance with this Order and the Divestiture Agreement(s) every

ninety days for a period of two years from the date Respondents sign the Consent Agreement and annually thereafter on the anniversary of the date this Order becomes final during the remainder of the Monitor Trustee's period of appointment, and at such other times as representatives of the Commission may request.

X.

IT IS FURTHER ORDERED that:

A. If Respondents have not divested, absolutely and in good faith and with the Commission's prior approval, each of the Businesses and Assets to Be Divested within the time periods required by this Order, the Commission may appoint a trustee to divest any of the Businesses and Assets to Be Divested that have not been divested ("the Remaining Businesses and Assets to Be Divested"). 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 trustee in such action to divest the Remaining Businesses and Assets to Be Divested. Neither the appointment of a trustee nor a decision not to appoint a 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 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.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph X.A of this Order, Respondents shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

C. The Commission shall select the trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld. The 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 trustee within ten (10) days after notice by the staff of the Commission to Respondents of the identity of any proposed trustee, Respondents shall be deemed to have consented to the selection of the proposed trustee.

D. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Remaining Businesses and Assets to Be Divested.

E. Within ten (10) days after appointment of the trustee, Respondents shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestitures required by this Order.

F. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph X.E to accomplish the divestitures, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that 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 trustee, by the court; *provided, however,* the Commission may extend this period only two (2) times.

G. The trustee shall have full and complete access to the personnel, books, records and facilities related to the Remaining Businesses and Assets to Be Divested or to any other relevant information, as the trustee may request. Respondents shall develop such financial or

not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

K. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph X.A of this Order.

L. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestitures required by this Order.

M. In the event that the trustee determines that he or she is unable to divest the Remaining Businesses and Assets to Be Divested in a manner consistent with the Commission's purpose as described in Paragraphs II, III, IV, and VI, the trustee may divest such additional ancillary assets related to the Businesses and Assets to Be Divested and effect such arrangements as are necessary to satisfy the requirements of this Order.

N. The trustee shall have no obligation or authority to operate or maintain the Remaining Businesses and Assets to Be Divested.

O. The trustee shall report in writing to Respondents and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture, until the Businesses and Assets to be Divested have been divested.

XI.

IT IS FURTHER ORDERED that:

A. Within thirty (30) days after Respondents sign the Consent Agreement and every thirty (30) days thereafter until thirty (30) days after Respondents have divested the Dow Global Ethyleneamines Business, the Dow Global Ethanolamines Business, the Dow Gas Spec MDEA Business, and the Dow Gas Phase Metallocene PE Assets, as required by the provisions of Paragraphs II, III, IV, VI, and VII of this Order, 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 Paragraphs II, III, IV, VI, and VII of this Order. Respondents shall include in their compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II, III, IV, VI, and VII of the Order, including a description of all substantive contacts or negotiations for the divestiture and the identity of all parties contacted. Respondents shall include in their compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture; and

B. Within thirty (30) days after the Respondents sign the Agreement Containing Consent Order and every six (6) months thereafter until the earlier of: (i) the third anniversary of the date of this Order; or (ii) expiration of all the terms of all the contracts that comprise the Huntsman Agreement, the Ineos Agreement, the BP Divestiture and License Agreement, any New Ethyleneamines Divestiture Agreement, any New Ethanolamines Divestiture Agreement, or any New Gas Spec MDEA Divestiture 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 the Huntsman Agreement, the Ineos Agreement, the BP Divestiture and License Agreement, any New Ethyleneamines Divestiture Agreement, any New Ethanolamines Divestiture Agreement, any New Gas Spec MDEA Divestiture Agreement. Respondents shall submit such compliance reports on an annual basis beginning on the fourth anniversary of the date of this Order until the earlier of: (i) the tenth anniversary of the date of this Order; or (ii) expiration of all the terms of the all the contracts that comprise the Huntsman Agreement, the Ineos Agreement, the BP Divestiture and License Agreement, any New Ethyleneamines Divestiture Agreement, any New Ethanolamines Divestiture Agreement, or any New Gas Spec MDEA Divestiture Agreement. All compliance reports submitted by Respondents shall identify and describe in reasonable detail all disputes (including, but not limited to, any allegation or claim that any person is in breach of its obligations under this Order, including but not limited to any contracts incorporated into this Order) with either the Interim Trustee or Acquirer.

XII.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate Respondents such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of the Order.

XIII.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, upon written request, Respondents shall permit any duly authorized representative of the Commission:

A. Access, during office hours and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Respondents relating to any matters contained in this Order; and

B. Upon five days' notice to Respondents and without restraint or interference from them, to interview in the presence of counsel, officers, directors, employees, agents or independent contractors of Respondents.

XIV.

IT IS FURTHER ORDERED that this Order shall terminate ten (10) years from the date this Order becomes final.

By the Commission.

Donald S. Clark
Secretary

ISSUED:

APPENDIX A: ORDER TO MAINTAIN ASSETS

CONFIDENTIAL APPENDICES B-I
[Redacted from Public Record Version]