

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

COMMISSIONERS: **William E. Kovacic, Chairman**
 Pamela Jones Harbour
 Jon Leibowitz
 J. Thomas Rosch

In the Matter of)
)
)
 The Dow Chemical Company,)
a corporation.)
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)
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File No. 081 0214

AGREEMENT CONTAINING CONSENT ORDERS

The Federal Trade Commission (“Commission”) having initiated an investigation of the proposed acquisition by Respondent The Dow Chemical Company (hereinafter “Dow”, “Respondent”, or “Respondent Dow”) of Rohm and Haas Company, and it now appearing that Dow, hereinafter sometimes referred to as “Proposed Respondent,” is willing to enter into this Agreement Containing Consent Order (“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 attorney, and counsel for the Commission that:

1. Proposed Respondent Dow 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. Proposed Respondent admits all the jurisdictional facts set forth in the draft of Complaint here attached.
3. Proposed Respondent waives:
 - a. any further procedural steps;
 - b. the requirement that the Commission's Order to Hold Separate and Maintain Assets (hereinafter, “Hold Separate Order”), and Decision and

Order, here attached and made a part hereof, contain a statement 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 Hold Separate Order and the Decision and Order entered pursuant to this Consent Agreement; and,
 - d. any claim under the Equal Access to Justice Act.
4. Not later than thirty (30) days after the date this Consent Agreement is signed by Proposed Respondent, Proposed Respondent shall submit an initial report, pursuant to Section 2.33 of the Commission's Rules, 16 C.F.R. § 2.33. Proposed Respondent shall also submit subsequent reports every thirty (30) days thereafter until the Decision and Order becomes final, at which time the report obligations of the Decision and Order (other than the requirement to submit an initial report pursuant to this Consent Agreement) shall control. Such reports shall be signed under penalty of perjury by the Proposed Respondent and shall set forth in detail the manner in which Proposed Respondent has complied and will comply with the Hold Separate and the Decision and Order. Such reports shall provide sufficient information to enable the Commission to determine independently whether the Proposed Respondent is in compliance with this Consent Agreement, the Hold Separate Order, and the Decision and Order. Such reports will not become part of the public record unless and until this Consent Agreement and the accompanying Decision and Order are accepted by the Commission for public comment.
5. This Consent Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Consent Agreement is accepted by the Commission, it, together with the Complaint contemplated thereby, 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 Proposed Respondent, in which event it will take such action as it may consider appropriate, or issue or amend its complaint if circumstances so require and issue its Decision and Order, in disposition of the proceeding.
6. The Commission may issue its Complaint and the Hold Separate Order at any time after it accepts this Consent Agreement.
 - a. No later than the Acquisition Date Respondent Dow shall enter into the Hold Separate Trustee Agreement as provided in Paragraph II.D.1 of the Hold Separate Order.
 - b. No later than five (5) business days after the Acquisition Date, Respondent Dow shall enter into the Management Agreements provided in Paragraph II.D.2 of the Hold Separate Order.
7. 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 Complaint here attached, or that the facts as alleged in the draft Complaint, other than jurisdictional facts, are true.

8. This Consent Agreement contemplates that, if it is accepted by the Commission, the Commission may (1) issue its Complaint corresponding in form and substance with the draft Complaint here attached; (2) issue and serve the Hold Separate Order here attached; and, (3) 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 in disposition of the proceeding.
9. When final, the Decision and Order shall have the same force and effect, and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The Hold Separate Order and the Decision and Order shall become final upon service. Delivery of the Complaint, the Hold Separate Order, and Decision and Order to Proposed Respondent by any means provided in Commission Rule 4.4(a), 16 C.F.R. § 4.4(a), shall constitute service. Proposed Respondent also waives any right it may have to service of any document incorporated by reference into the Hold Separate Order or the Decision and Order (whether or not such document exists when the Hold Separate Order or the Decision and Order is issued), and agrees that it is bound to comply with the Decision and Order (and any document incorporated by reference into it) to the same extent as if it had been served with the document.
10. The Complaint may be used in construing the terms of the Hold Separate Order and the Decision and Order. No agreement, understanding, representation, or interpretation not contained in the Hold Separate Order and the Decision and Order, or the Consent Agreement, may be used to vary or contradict the terms of the Hold Separate Order and the Decision and Order.
11. By signing this Consent Agreement, Proposed Respondent represents and warrants that it can accomplish the full relief contemplated by the attached Hold Separate Order and Decision and Order, and that all parents, subsidiaries, affiliates, and successors necessary to effect the full relief contemplated by this Consent Agreement are parties to the Consent Agreement and are bound thereby as if they had signed this Consent Agreement and were made parties to this proceeding and to the order.
12. By signing this Consent Agreement, Proposed Respondent represents and warrants that any License (as defined in the Decision and Order) that has been submitted to the Commission at the time of this Consent Agreement for approval by the Commission in connection with the Commission's determination to make the Decision and Order final comports with all of the relevant requirements of the

Decision and Order and requires Proposed Respondent to license relevant patents as required by relevant divestiture requirements of the Decision and Order. Proposed Respondent also represents and warrants that Proposed Respondent shall interpret each such License in a manner that is fully consistent with all of the relevant provisions and remedial purposes of the Decision and Order.

13. Proposed Respondent has read the Complaint, Hold Separate Order, and Decision and Order. Proposed Respondent understands that, from the date Proposed Respondent signs this Consent Agreement, Proposed Respondent has obligations to file one or more reports with the Commission setting forth in detail the manner in which Proposed Respondent will comply and has complied with the Hold Separate Order and the Decision and Order. Proposed Respondent agrees to comply with the terms of the Hold Separate Order and the Decision and Order from the date the Commission accepts 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 Hold Separate Order and the Decision and Order.

Signed this _____ day of January, 2009

The Dow Chemical Company

FEDERAL TRADE COMMISSION

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