

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

| | | |
|----------------------------------|---|-------------------------|
| In the Matter of |) | |
| |) | |
| Danaher Corporation, |) | |
| a corporation; |) | |
| |) | |
| and |) | File No. 1910082 |
| |) | |
| General Electric Company, |) | |
| a corporation. |) | |
| |) | |

AGREEMENT CONTAINING CONSENT ORDERS

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed acquisition by Danaher Corporation of General Electric Company’s Biopharma business. The Commission’s Bureau of Competition has prepared a draft administrative complaint (“Draft Complaint”). The Bureau of Competition, Danaher Corporation and General Electric Company (“Proposed Respondents) and proposed acquirer Sartorius AG (“Sartorius”) enter this Agreement Containing Consent Orders (“Consent Agreement”) to divest certain assets and providing for other relief to resolve the allegations in the Draft Complaint through a proposed Decision and Order and Order to Hold Separate and Maintain Assets, all of which are attached, to present to the Commission.

IT IS HEREBY AGREED by and between Proposed Respondents, Sartorius, by their duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed Respondent Danaher is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Delaware, with its headquarters located at 2200 Pennsylvania Avenue, NW, Suite 800W, Washington, DC 20037-1701.
2. Proposed Respondent GE is a corporation organized, existing, and doing business under and by virtue of the laws of the state of New York, with its headquarters located at 41 Farnsworth Street, Boston, Massachusetts 02210.
3. Sartorius is a corporation organized, existing and doing business under, and by virtue of, the laws of Germany with its headquarters at Otto-Brenner-Str. 20, 37079 Goettingen, Germany, and includes Sartorius Stedim North America Inc., a corporation organized, existing and doing business under, and by virtue of, the

laws of the State of Delaware with its headquarters located at 565 Johnson Ave., Bohemia, New York 11716.

4. Sartorius enters into this Consent Agreement solely for the purpose of agreeing to the requirements of Paragraph X (Prior Notice and Prior Approval) and agrees on behalf of itself and its directors, officers, employees, agents, representatives, successors, and assigns; joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by Sartorius, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each, to be bound by and to comply with Paragraph X (Prior Notice and Prior Approval) as though Sartorius was a Respondent under the Decision and Order.
5. Sartorius further agrees that it will not object to the Commission's right to seek the same relief against Sartorius for violation of Paragraph X (Prior Notice and Prior Approval) of the Decision and Order that the Commission can seek against any Respondent for violation of an Order issued by the Commission. Sartorius does not otherwise waive its right to contest any action against it based on violating Paragraph X (Prior Notice and Prior Approval) of the Decision and Order.
6. Proposed Respondents and Sartorius admit all the jurisdictional facts set forth in the Draft Complaint.
7. Proposed Respondents and Sartorius waive:
 - a. any further procedural steps;
 - b. the requirement that the Decision and Order and the Order to Hold Separate and Maintain Assets 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 Decision and Order or the Order to Hold Separate and Maintain Assets entered pursuant to this Consent Agreement; and
 - d. any claim under the Equal Access to Justice Act.
8. This Consent Agreement is for settlement purposes only and does not constitute an admission by Proposed Respondents that the law has been violated as alleged in the Draft Complaint, or that the facts as alleged in the Draft Complaint, other than jurisdictional facts, are true.
9. Proposed Respondents shall submit an initial compliance report, pursuant to Commission Rule 2.33, 16 C.F.R. § 2.33, no later than 30 days after the date on

which Proposed Respondents execute this Consent Agreement and subsequent compliance reports every 30 days thereafter until the Order to Hold Separate and Maintain Assets becomes final. After the Order to Hold Separate and Maintain Assets becomes final, the reporting obligations contained in the Order to Hold Separate and Maintain Assets shall control and the reporting obligations under this Consent Agreement shall cease. Each compliance report shall set forth in detail the manner in which Proposed Respondents have complied, have prepared to comply, is complying, and will comply with the Consent Agreement, Decision and Order, and the Order to Hold Separate and Maintain Assets. Proposed Respondents shall provide sufficient information and documentation to enable the Commission to determine independently whether Proposed Respondents are in compliance with the Consent Agreement, the Decision and Order, and the Order to Hold Separate and Maintain Assets.

10. Each compliance report submitted pursuant to Paragraph 9 above shall be verified in the manner set forth in 28 U.S.C. § 1746 by the Chief Executive Officer or another officer or employee specifically authorized to perform this function. Commission Rule 2.41(a), 16 C.F.R. § 2.41(a), requires that the Commission receive an original and 2 copies of each compliance report. Proposed Respondents shall file a paper original of each compliance report with the Secretary of the Commission and electronic copies of each compliance report with the Secretary at ElectronicFilings@ftc.gov, and with the Compliance Division at bccompliance@ftc.gov. In addition, Proposed Respondents shall provide a copy of each compliance report to the Monitor, if one has been appointed pursuant to the Decision and Order or the Order to Hold Separate and Maintain Assets.
11. This Consent Agreement, and any compliance reports filed pursuant to this Consent Agreement, shall not become part of the public record of the proceeding unless and until the Commission accepts the Consent Agreement. If the Commission accepts this Consent Agreement, the Commission will place it, together with the Complaint, the proposed Decision and Order, the Order to Hold Separate and Maintain Assets, an explanation of the provisions of the proposed Decision and Order and the Order to Hold Separate and Maintain Assets, and any other information that may help interested persons understand the order on the public record for the receipt of comments for 30 days.
12. Because there may be interim competitive harm, the Commission may issue and serve its Complaint (in such form as the circumstances may require) and the Order to Hold Separate and Maintain Assets in this matter at any time after it accepts the Consent Agreement for public comment.

13. This Consent Agreement contemplates that, if the Commission accepts the Consent Agreement, the Commission thereafter may withdraw its acceptance of this Consent Agreement and notify Proposed Respondent, in which event the Commission will take such action as it may consider appropriate. If the Commission does not subsequently withdraw such acceptance pursuant to the provisions of Commission Rule 2.34, 16 C.F.R. § 2.34, and it has already issued the Complaint and Order to Hold Separate and Maintain Assets, the Commission may, without further notice to Proposed Respondent, issue the attached Decision and Order containing an order to divest and providing for other relief in disposition of the proceeding.
14. The Decision and Order and the Order to Hold Separate and Maintain Assets shall become final upon service. Delivery of the Complaint, the Decision and Order, and the Order to Hold Separate and Maintain Assets to Proposed Respondents or Sartorius by any means provided in Commission Rule 4.4(a), 16 C.F.R. § 4.4(a), or by delivery to United States counsel for the served Proposed Respondent identified in this Consent Agreement, shall constitute service to Proposed Respondent. Proposed Respondents and Sartorius waive any rights they may have to any other manner of service. Proposed Respondents and Sartorius also waive any rights either may otherwise have to service of any Appendices attached to or incorporated by reference into the Decision and Order or the Order to Hold Separate and Maintain Assets, if a Proposed Respondent or Sartorius is already in possession of such appendices, and agree that it is bound to comply with and will comply with the Decision and Order and the Order to Hold Separate and Maintain Assets to the same extent as if it had been served with copies of the Appendices.
15. The Complaint may be used in construing the terms of the Decision and Order and the Order to Hold Separate and Maintain Assets, and no agreement, understanding, representation, or interpretation not contained in the Decision and Order, the Order to Hold Separate and Maintain Assets, or the Consent Agreement may be used to vary or contradict the terms of the Decision and Order or the Order to Hold Separate and Maintain Assets.
16. By signing this Consent Agreement, Proposed Respondents represent and warrant that:
 - a. they can fulfill all the terms of and accomplish the full relief contemplated by the Decision and Order and the Order to Hold Separate and Maintain Assets including, among other things, effectuating all required divestitures, assignments and transfers, and obtaining any necessary approvals from governmental authorities, leaseholders, and other third parties to effectuate the divestitures, assignments, and transfers; and

- b. all parents, subsidiaries, affiliates, and successors necessary to effectuate the full relief contemplated by this Consent Agreement, the Decision and Order and the Order to Hold Separate and Maintain Assets are parties to this Consent Agreement and are bound as if they had signed this Consent Agreement and were made parties to this proceeding, or are within the control of parties to this Consent Agreement, the Decision and Order and the Order to Hold Separate and Maintain Assets, or will be after the acquisition.
- 17. By signing this Consent Agreement, Sartorius represents and warrants that it will comply with Paragraph X (Prior Approval and Prior Notice) of the Decision and Order and further represents and warrants that all parents, subsidiaries, partners, affiliates, and successors necessary to effectuate its compliance with Paragraph X (Prior Approval and Prior Notice) are within the control of Sartorius.
- 18. Proposed Respondents and Sartorius have read the Draft Complaint, the proposed Decision and Order, and the Order to Hold Separate and Maintain Assets. From the date Proposed Respondents and Sartorius sign the Consent Agreement, each agrees to comply with the terms of the proposed Decision and Order, and Proposed Respondents agree to comply with the Order to Hold Separate and Maintain Assets. Proposed Respondents understand that once the Commission has issued the Decision and Order and the Order to Hold Separate and Maintain Assets, Proposed Respondents will be required to file one or more compliance reports setting forth in detail the manner in which it has complied, has prepared to comply, is complying, and will comply with the Decision and Order and the Order to Hold Separate and Maintain Assets. When final, the Decision and Order and the Order to Hold Separate and Maintain Assets shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time as provided by statute for other orders. Proposed Respondents and Sartorius further understand that each may be liable for civil penalties in the amount provided by law for each violation of the Decision and Order or of the Order to Hold Separate and Maintain Assets.

DANAHER CORPORATION

FEDERAL TRADE COMMISSION

President and CEO

Dated: _____

Lisa De Marchi Sleigh
William Cooke
Attorneys
Bureau of Competition

APPROVED:

Leon B. Greenfield
Hartmut Schneider
Wilmer Cutler Pickering Hale and Dorr LLP
Counsel for Danaher Corporation

James Weiss
Deputy Assistant Director

GENERAL ELECTRIC COMPANY

President and CEO

Dated: _____

Daniel Zach
Acting Assistant Director

Sharis A. Pozen
Clifford Chance
Counsel for General Electric Company

Gail F. Levine
Deputy Director

Deborah A. Garza
Anne Y. Lee
Covington & Burling
Counsel for General Electric Company

Ian R. Conner
Director

Bureau of Competition

SARTORIUS AG

Dr. Joachim Kreuzburg
Chairman of the Executive Board and CEO
Dated: _____

Jens Artelt
Head of Legal Affairs & Compliance
Dated: _____

Fiona A Schaeffer
Milbank LLP
Counsel for Sartorius AG