

**ACQUISITION BY UNIVERSAL HEALTH SERVICES INC. (THROUGH  
CYGNET HEALTH CARE LIMITED) OF THE CAMBIAN ADULT  
SERVICES BUSINESS**

**Initial Enforcement Order made by the  
Competition and Markets Authority pursuant to  
section 72(2) of the Enterprise Act 2002 (the Act)**

Whereas:

- (a) the Competition and Markets Authority (**CMA**) has reasonable grounds for suspecting that it is or may be the case that, on the one hand, Cygnet Health Care Limited (**Cygnnet**) (a subsidiary of UK Acquisitions No. 6 Ltd (**Cygnnet UK TopCo**)), itself owned by Universal Health Services Inc. (**UHS**)) and, on the other, the Cambian Adult Services division of Cambian Group plc, being held and operated by Care Aspirations Developments Limited, Cambian Healthcare Limited and Cambian Care Services Limited (together **Cambian Adult Services**) have ceased to be distinct;
- (b) the CMA is considering, pursuant to section 22 of the Act, whether it is or may be the case that a relevant merger situation has been created and whether the creation of that situation has resulted or may be expected to result in a substantial lessening of competition in any market or markets in the United Kingdom (**UK**);
- (c) the CMA wishes to ensure that no action is taken pending final determination of any reference under section 22 of the Act which might prejudice that reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decisions on the reference; and
- (d) the circumstances set out in section 72(6) of the Act do not apply and the reference has not been finally determined in accordance with section 79(1) of the Act.

Now for the purposes of preventing pre-emptive action in accordance with section 72(2) of the Act the CMA makes the following order addressed to Cygnet, Cygnet UK TopCo and UHS (**Order**).

## **Commencement, application and scope**

1. This Order commences on the commencement date: 28 December 2016.
2. This Order applies to Cygnet, Cygnet UK TopCo and UHS.
3. Notwithstanding any other provision of this Order, no act or omission shall constitute a breach of this Order, and nothing in this Order shall oblige UHS, Cygnet UK TopCo or Cygnet to reverse any act or omission, in each case to the extent that it occurred or was completed prior to the commencement date.

## **Management of the UHS/Cygnet businesses and Cambian Adult Services business until determination of proceedings**

4. Except with the prior written consent of the CMA, Cygnet, Cygnet UK TopCo and UHS shall not, during the specified period, take any action which might prejudice a reference of the transaction under section 22 of the Act or impede the taking of any action under the Act by the CMA which may be justified by the CMA's decisions on such a reference, including any action which might:
  - (a) lead to the integration of the Cambian Adult Services business with the UHS/Cygnet business;
  - (b) transfer the ownership or control of the UHS/Cygnet business or the Cambian Adult Services business or any of their subsidiaries; or
  - (c) otherwise impair the ability of the Cambian Adult Services business or the UHS/Cygnet business to compete independently in any of the markets affected by the transaction.
5. Further and without prejudice to the generality of paragraph 4 and subject to paragraph 3, Cygnet, Cygnet UK TopCo and UHS shall at all times during the specified period procure that, except with the prior written consent of the CMA:
  - (a) the Cambian Adult Services business is carried on separately from the UHS/Cygnet business and the Cambian Adult Services business' separate sales or brand identity is maintained;
  - (b) the Cambian Adult Services business and the UHS/Cygnet business are maintained as a going concern and sufficient resources are made available for the development of the Cambian Adult Services business and the UHS/Cygnet business, on the basis of their respective pre-merger business plans;

- (c) except in the ordinary course of business, no substantive changes are made to the organisational structure of, or the management responsibilities within, the Cambian Adult Services business or the UHS/Cygnet business;
- (d) the nature, description, range and quality of services supplied in the UK by each of the two businesses are maintained and preserved;
- (e) except in the ordinary course of business for the separate operation of the two businesses:
  - (i) all of the assets of the Cambian Adult Services business and the UHS/Cygnet business are maintained and preserved, including facilities and goodwill;
  - (ii) none of the assets of the Cambian Adult Services business or the UHS/Cygnet business are disposed of; and
  - (iii) no interest in the assets of the Cambian Adult Services business or the UHS/Cygnet business is created or disposed of;
- (f) there is no integration of the information technology of the Cambian Adult Services business and UHS/Cygnet business, and the software and hardware platforms of the Cambian Adult Services business shall remain essentially unchanged, except for routine changes and maintenance;
- (g) the customer and supplier lists of the two businesses shall be operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Cambian Adult Services business will be carried out by the Cambian Adult Services business alone and for the avoidance of doubt the UHS/Cygnet business will not negotiate on behalf of the Cambian Adult Services business (and vice versa) or enter into any joint agreements with the Cambian Adult Services business (and vice versa);
- (h) all existing contracts of the Cambian Adult Services business and the UHS/Cygnet business continue to be serviced by the business to which they were awarded;
- (i) no changes are made to key staff of the Cambian Adult Services business or UHS/Cygnet business;
- (j) no key staff are transferred between the Cambian Adult Services business and the UHS/Cygnet business;

- (k) all reasonable steps are taken to encourage all key staff to remain with the Cambian Adult Services business and the UHS/Cygnet business; and
- (l) no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses shall pass, directly or indirectly, from the Cambian Adult Services business (or any of its employees, directors, agents or affiliates) to the UHS/Cygnet business (or any of its employees, directors, agents or affiliates), or vice versa, except where strictly necessary in the ordinary course of business (for example, where required for compliance with external regulatory and/or accounting obligations) and on the basis that, should the transaction be prohibited, any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the business to which they relate and any copies destroyed.

## **Compliance**

- 6. Cygnet, Cygnet UK TopCo and UHS shall procure that each of their subsidiaries complies with this Order as if the Order had been issued to each of them.
- 7. Cygnet, Cygnet UK TopCo and UHS shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by Cygnet, Cygnet UK TopCo and UHS and their subsidiaries with this Order. In particular, on 12 January 2017 and subsequently every two weeks (or, where this does not fall on a working day, the first working day thereafter) the Chief Executive Officer of Cygnet, Cygnet UK TopCo and UHS or other persons of each company as agreed with the CMA shall, on behalf of Cygnet, Cygnet UK TopCo and UHS, provide a statement to the CMA in the form set out in the Annex to this Order confirming compliance with this Order.
- 8. At all times, Cygnet, Cygnet UK TopCo and UHS shall, or shall procure that Cambian Adult Services shall, actively keep the CMA informed of any material developments relating to the Cambian Adult Services business or the UHS/Cygnet business, which includes but is not limited to:
  - (a) details of key staff who leave or join the Cambian Adult Services business or the UHS/Cygnet business;
  - (b) any interruption of the Cambian Adult Services business or UHS/Cygnet business (including without limitation its procurement, production, logistics, sales and employee relations arrangements) that has prevented

it from operating in the ordinary course of business for more than 24 hours;

- (c) all substantial customer volumes won or lost or substantial changes to the customer contracts for the Cambian Adult Services business or UHS/Cygnet business including any substantial changes in customers' demand; and
  - (d) substantial changes in the of the ambian Adult Services business's or UHS/Cygnet business's contractual arrangements or relationships with key suppliers.
9. If Cygnet, Cygnet UK TopCo or UHS has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that Cygnet and/or Cygnet UK TopCo and/or UHS may be directed to appoint under paragraph 10.
10. The CMA may give directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with, this Order, or do or refrain from doing any specified action in order to ensure compliance with the Order. The CMA may vary or revoke any directions so given.
11. Cygnet, Cygnet UK TopCo and UHS shall comply in so far as they are able with such directions as the CMA may from time to time give to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with this Order.

## **Interpretation**

12. The Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.
13. For the purposes of this Order:

**'the Act'** means the Enterprise Act 2002;

**'an affiliate'** of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on from time to time and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act;

**'business'** has the meaning given by section 129(1) and (3) of the Act;

**'Cambian Adult Services'** means the Cambian Adult Services division of Cambian Group plc (registered number 08929371), being held and operated by Care Aspirations Developments Limited (registered number 07047184), Cambian Healthcare Limited (registered number 03977299) and Cambian Care Services Limited (registered number 02683377);

**'the Cambian Adult Services business'** means the business of Cambian Adult Services and its subsidiaries carried on as at the commencement date;

**'Cygnet'** means Cygnet Health Care Limited (registered number 02141256);

**'Cygnet UK TopCo'** means UK Acquisitions No. 6 Ltd (registered number 09218089);

**'commencement date'** means 28 December 2016;

**'control'** includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise;

**'the decisions'** means the decisions of the CMA on the questions which it is required to answer by virtue of section 35 of the Act;

**'key staff'** means staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the business;

**'the ordinary course of business'** means matters connected to the day-to-day supply of services by Cambian Adult Services or UHS and does not include matters involving significant changes to the organisational structure or related to the post-merger integration of Cambian Adult Services and UHS;

**'specified period'** means the period beginning on the commencement date and terminating in accordance with section 72(6) of the Act;

**'subsidiary'**, unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006;

**'the transaction'** means the transaction by which Cygnet and Cambian Adult Services have ceased to be distinct within the meaning of section 23 of the Act;

**'the two businesses'** means the UHS/Cygnet business and the Cambian Adult Services business;

**'UHS'** means Universal Health Services Inc. (a company incorporated in Delaware, USA, whose principal business address is at 367 S Gulph Road, King of Prussia, Pennsylvania 19406);

**the UHS/Cygnnet business'** means the business of UHS and its subsidiaries (including Cygnnet and Cygnnet UK TopCo) carried on as at the commencement date;

unless the context requires otherwise, the singular shall include the plural and vice versa.

Ronan Scanlan  
Assistant Director, Mergers

## Compliance statement for [Cygnet/Cygnet UK TopCo/UHS]

I [insert name] confirm on behalf of [Cygnet/Cygnet UK TopCo/UHS][delete as appropriate] that:

### Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
  - (a) [Cygnet/Cygnet UK TopCo/UHS] has complied with the Order made by the CMA in relation to the transaction on 28 December 2016 (the Order).
  - (b) [Cygnet/Cygnet UK TopCo/UHS]'s subsidiaries have also complied with this Order.
2. Subject to paragraph 3 of the Order, and except with the prior written consent of the CMA:
  - (a) No action has been taken by [Cygnet/Cygnet UK TopCo/UHS] that might prejudice a reference of the transaction under section 22 of the Act or impede the taking of any action by the CMA which may be justified by its decision on such a reference, including any action which might:
    - (i) lead to the integration of the Cambian Adult Services business with the UHS/Cygnet business;
    - (ii) transfer the ownership or control of the UHS/Cygnet business or the Cambian Adult Services business or any of their subsidiaries; or
    - (iii) otherwise impair the ability of the Cambian Adult Services business or the UHS/Cygnet business to compete independently in any of the markets affected by the transaction.
  - (b) The Cambian Adult Services business has been carried on separately from the UHS/Cygnet business and the Cambian Adult Services business's separate sales or brand identity has been maintained.
  - (c) The Cambian Adult Services business and the UHS/Cygnet business have been maintained as a going concern and sufficient resources have been made available for the development of the Cambian Adult Services business and the UHS/Cygnet business, on the basis of their respective pre-merger business plans.



- (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, the Cambian Adult Services business or the UHS/Cygnet business, except in the ordinary course of business.
- (e) The nature, description, range and quality of services supplied in the UK by the Cambian Adult Services business and the UHS/Cygnet business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
  - (i) all of the assets of the Cambian Adult Services business and the UHS/Cygnet business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
  - (ii) none of the assets of the Cambian Adult Services business or the UHS/Cygnet business have been disposed of; and
  - (iii) no interest in the assets of the Cambian Adult Services business or the UHS/Cygnet business has been created or disposed of.
- (g) There has been no integration of the information technology of the Cambian Adult Services business or UHS/Cygnet businesses, and the software and hardware platforms of the Cambian Adult Services business have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Cambian Adult Services business have been carried out by the Cambian Adult Services business alone and, for the avoidance of doubt, the UHS/Cygnet business has not negotiated on behalf of the Cambian Adult Services business (and vice versa) or entered into any joint agreements with the Cambian Adult Services business (and vice versa).
- (i) All existing contracts of the Cambian Adult Services business and the UHS/Cygnet business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the Cambian Adult Services business or the UHS/Cygnet business.

- (k) No key staff have been transferred between the Cambian Adult Services business and the UHS/Cygnet business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the Cambian Adult Services business and the UHS/Cygnet business.
- (m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from the Cambian Adult Services business (or any of its employees, directors, agents or affiliates) to the UHS/Cygnet business (or any of its employees, directors, agents or affiliates), or vice versa.
- (n) Except as listed in paragraph (o) below, there have been no:
  - (i) key staff that have left or joined the Cambian Adult Services business or the UHS/Cygnet business;
  - (ii) interruptions of the Cambian Adult Services business or the UHS/Cygnet business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
  - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the Cambian Adult Services business or the UHS/Cygnet business; or
  - (iv) substantial changes in the Cambian Adult Services business's or UHS/Cygnet business's contractual arrangements or relationships with key suppliers.

(o) *[list of material developments]*

3. [Cygnet/Cygnet UK TopCo/UHS] and its subsidiaries remain in full compliance with the Order and will, or will procure that Cambian Adult Services, continue actively to keep the CMA informed of any material developments relating to the Cambian Adult Services business or the UHS/Cygnet business in accordance with paragraph 8 of the Order.

**Interpretation**

- 4. Terms defined in the Order have the same meaning in this compliance statement.

FOR AND ON BEHALF OF UHS

Signature .....

Name .....

Title .....

Date .....