

ACQUISITION BY GLO DUTCH BIDCO OF MALLINCKRODT NETHERLANDS HOLDINGS BV and MALLINCKRODT NUCLEAR MEDICINE LLC

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 **GLO Dutch Bidco B.V.** (purchaser) and **Mallinckrodt Netherlands Holdings B.V.** (non-US target) and Mallinckrodt Nuclear Medicine LLC (US Target) 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 (Order) addressed to:

- (a) GLO BidCo S. à. r.l. (Company number B198387) of 7, Rue Lou Hemmer, Findel, Luxembourg, 1748, Luxembourg (**GLO BidCo S.à r.l.**).
- (b) IBA Pharma SA (Company number 0860.215.596) of 3, Chemin du Cyclotron, Louvain-La-Neuve, 1348, Belgium (**IBA Pharma SA**).

- (c) GLO Dutch Bidco B.V. (Company number 856651734) of Barbara Strozzilaan 00201, 1083Hn, Amsterdam (**GLO Dutch Bidco B.V.**).
- (d) Mallinckrodt Netherlands Holdings BV (Company number 56159994) of Stationsplein 105, 'S-Hertogenbosch, 5211 BM, Netherlands (**Mallinckrodt Netherlands Holdings BV**).

Commencement, application and scope

1. This Order commences on the commencement date: 24 March 2017.
2. This Order applies to GLO BidCo S.à r.l., IBA Pharma SA, GLO Dutch Bidco, B.V. and Mallinckrodt Netherlands Holdings BV.
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 GLO BidCo S.à r.l., IBA Pharma SA, GLO Dutch Bidco, B.V. and Mallinckrodt Netherlands Holdings BV 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 GLO BidCo S.à r.l., IBA Pharma SA, GLO Dutch Bidco B.V. and the Mallinckrodt Netherlands Holdings BV until determination of proceedings

4. Except with the prior written consent of the CMA, GLO BidCo S.à r.l., IBA Pharma SA, GLO Dutch Bidco B.V. and Mallinckrodt Netherlands Holdings BV 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 Mallinckrodt Netherlands Holdings BV business with the GLO BidCo S.à r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses;
 - (b) transfer the ownership or control of the GLO BidCo S.à r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses or the Mallinckrodt Netherlands Holdings BV business or any of their subsidiaries; or
 - (c) otherwise impair the ability of the Mallinckrodt Netherlands Holdings BV business or the GLO BidCo S.à r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses 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, the GLO BidCo S.à r.l., IBA Pharma SA, GLO Dutch Bidco B.V.

and Mallinckrodt Netherlands Holdings BV shall at all times during the specified period procure that, except with the prior written consent of the CMA:

- (a) the Mallinckrodt Netherlands Holdings BV business is carried on separately from the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses and the Mallinckrodt Netherlands Holdings BV business's separate sales or brand identity is maintained;
- (b) the Mallinckrodt Netherlands Holdings BV business and the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses are maintained as a going concern and sufficient resources are made available for the development of the Mallinckrodt Netherlands Holdings BV business and the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses, 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 Mallinckrodt Netherlands Holdings BV business or the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses;
- (d) the nature, description, range and quality of goods and/or services supplied in the UK by each of the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses and the Mallinckrodt Netherlands Holdings BV business 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 Mallinckrodt Netherlands Holdings BV business and the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses are maintained and preserved, including facilities and goodwill;
 - (ii) none of the assets of the Mallinckrodt Netherlands Holdings BV business or the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses are disposed of; and
 - (iii) no interest in the assets of the Mallinckrodt Netherlands Holdings BV business or the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses is created or disposed of;

- (f) there is no integration of the information technology of the Mallinckrodt Netherlands Holdings BV or GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses, and the software and hardware platforms of the Mallinckrodt Netherlands Holdings BV business shall remain essentially unchanged, except for routine changes and maintenance;
- (g) the customer and supplier lists of the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses and the Mallinckrodt Netherlands Holdings BV business shall be operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to each of these businesses will be carried out by each of those businesses as per the day prior to this transaction and for the avoidance of doubt GLO BidCo S.å r.l., IBA Pharma SA and/or GLO Dutch Bidco B.V. will not negotiate on behalf of Mallinckrodt Netherlands Holdings BV (and vice versa) or enter into any joint agreements with Mallinckrodt Netherlands Holdings BV (and vice versa);
- (h) all existing contracts of the Mallinckrodt Netherlands Holdings BV business and GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses continue to be serviced by the business to which they were awarded;
- (i) no changes are made to key staff of the Mallinckrodt Netherlands Holdings BV business or GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses;
- (j) no key staff are transferred between the Mallinckrodt Netherlands Holdings BV business and the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses;
- (k) all reasonable steps are taken to encourage all key staff to remain with the Mallinckrodt Netherlands Holdings BV business and the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses; and
- (l) no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to the businesses shall pass, directly or indirectly, from Mallinckrodt Netherlands Holdings BV (or any of its employees, directors, agents or affiliates) to GLO BidCo S.å r.l., IBA Pharma SA and/or GLO Dutch Bidco B.V. (or any of their 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. GLO BidCo S.å r.l., IBA Pharma SA, GLO Dutch Bidco B.V. and Mallinckrodt Netherlands Holdings BV shall procure that each of their subsidiaries complies with this Order as if the Order had been issued to each of them.
7. GLO BidCo S.å r.l., IBA Pharma SA, GLO Dutch Bidco B.V. and Mallinckrodt Netherlands Holdings BV 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 the GLO BidCo S.å r.l., IBA Pharma SA, GLO Dutch Bidco B.V. and Mallinckrodt Netherlands Holdings BV and their subsidiaries with this Order. In particular, on 7 April 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 GLO BidCo S.å r.l., IBA Pharma SA, GLO Dutch Bidco B.V. and Mallinckrodt Netherlands Holdings BV or other persons of the GLO BidCo S.å r.l., IBA Pharma SA, GLO Dutch Bidco B.V. and Mallinckrodt Netherlands Holdings BV as agreed with the CMA shall, on behalf of GLO BidCo S.å r.l., IBA Pharma SA, GLO Dutch Bidco B.V. and Mallinckrodt Netherlands Holdings BV, 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, GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. shall, or shall procure that Mallinckrodt Netherlands Holdings BV shall, actively keep the CMA informed of any material developments relating to the Mallinckrodt Netherlands Holdings BV business or the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses, which includes but is not limited to:
 - (a) details of key staff who leave or join Mallinckrodt Netherlands Holdings BV business or the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses;
 - (b) any interruption of Mallinckrodt Netherlands Holdings BV or GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses (including without limitation the 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 Mallinckrodt Netherlands Holdings BV or GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses including any substantial changes in customers' demand; and
- (d) substantial changes in the Mallinckrodt Netherlands Holdings BV or GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses' contractual arrangements or relationships with key suppliers.
9. If GLO BidCo S.å r.l., IBA Pharma SA, GLO Dutch Bidco B.V. and/or Mallinckrodt Netherlands Holdings BV have any reason to suspect that this Order might have been breached they shall immediately notify the CMA and any monitoring trustee that GLO BidCo S.å r.l., IBA Pharma SA, GLO Dutch Bidco B.V. and/or Mallinckrodt Netherlands Holdings BV 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. GLO BidCo S.å r.l., IBA Pharma SA, GLO Dutch Bidco B.V. and Mallinckrodt Netherlands Holdings BV 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;

'commencement date' means 24 March 2017;

'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;

'GLO BidCo S.à r.l.' means GLO BidCo S.à r.l., company number B198387 of 7, Rue Lou Hemmer, Findel, Luxembourg, 1748, Luxembourg, its subsidiaries and affiliates as carried on as at 27 January 2017;

'GLO Dutch Bidco B.V.' means GLO Dutch Bidco B.V., company number 856651734 of Barbara Strozilaan 00201, 1083Hn, Amsterdam its subsidiaries and affiliates as carried on as at 27 January 2017;

'IBA Pharma SA' means IBA Pharma SA, company number 0860.215.596 of 3, Chemin du Cyclotron, Louvain-La-Neuve, 1348, Belgium its subsidiaries and affiliates as carried on as at 27 January 2017;

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

'Mallinckrodt Netherlands Holdings BV' means **Mallinckrodt Netherlands Holdings BV**, company number 56159994 of Stationsplein 105, 'S-Hertogenbosch, 5211 BM, Netherlands;

'the ordinary course of business' means matters connected to the day-to-day supply of goods and/or services by the Mallinckrodt Netherlands Holdings BV or GLO BidCo S.à r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses and does not include matters involving significant changes to the organisational structure or related to the post-merger integration of Mallinckrodt Netherlands Holdings BV and the GLO BidCo S.à r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses.

'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 GLO Dutch Bidco B.V. and Mallinckrodt Netherlands Holdings BV have ceased to be distinct within the meaning of section 23 of the Act;

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

Raúl Nieto

Assistant Director, Mergers

Compliance statement for [X]

I [insert name] confirm on behalf of X that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) The GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses have complied with the Order made by the CMA in relation to the transaction on 24 March 2017.
 - (b) The GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses' 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 the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses 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 Mallinckrodt Netherlands Holdings BV business with the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses;
 - (ii) transfer the ownership or control of the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses or the Mallinckrodt Netherlands Holdings BV business or any of their subsidiaries; or
 - (iii) otherwise impair the ability of the Mallinckrodt Netherlands Holdings BV business or the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses to compete independently in any of the markets affected by the transaction.
 - (b) The Mallinckrodt Netherlands Holdings BV business has been carried on separately from the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses and the Mallinckrodt Netherlands Holdings BV business's separate sales or brand identity has been maintained.

- (c) The Mallinckrodt Netherlands Holdings BV business and the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses have been maintained as a going concern and sufficient resources have been made available for the development of the Mallinckrodt Netherlands Holdings BV business and the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses, 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 Mallinckrodt Netherlands Holdings BV business or the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses, except in the ordinary course of business.
- (e) The nature, description, range and quality of goods and/or services applied in the UK by the Mallinckrodt Netherlands Holdings BV business and the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the GLO BidCo S.å r.l., IBA Pharma SA, GLO Dutch Bidco B.V. and Mallinckrodt Netherlands Holdings BV businesses:
- (i) all of the assets of the Mallinckrodt Netherlands Holdings BV business and the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
 - (ii) none of the assets of the Mallinckrodt Netherlands Holdings BV business or the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses have been disposed of; and
 - (iii) no interest in the assets of the Mallinckrodt Netherlands Holdings BV business or the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses has been created or disposed of.
- (g) There has been no integration of the information technology of the Mallinckrodt Netherlands Holdings BV or GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses, and the software and hardware platforms of the Mallinckrodt Netherlands Holdings BV 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 GLO BidCo S.å r.l., IBA

Pharma SA, GLO Dutch Bidco B.V. and Mallinckrodt Netherlands Holdings BV businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Mallinckrodt Netherlands Holdings BV business have been carried out by the Mallinckrodt Netherlands Holdings BV business alone and, for the avoidance of doubt, the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses have not negotiated on behalf of the Mallinckrodt Netherlands Holdings BV business (and vice versa) or entered into any joint agreements with the Mallinckrodt Netherlands Holdings BV business (and vice versa).

- (i) All existing contracts of the Mallinckrodt Netherlands Holdings BV business and the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses 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 Mallinckrodt Netherlands Holdings BV business or the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses.
- (k) No key staff have been transferred between the Mallinckrodt Netherlands Holdings BV business and the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the Mallinckrodt Netherlands Holdings BV business and the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses.
- (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 GLO BidCo S.å r.l., IBA Pharma SA, GLO Dutch Bidco B.V. and Mallinckrodt Netherlands Holdings BV businesses, has passed, directly or indirectly, from the Mallinckrodt Netherlands Holdings BV business (or any of its employees, directors, agents or affiliates) to the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses (or any of their 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 Mallinckrodt Netherlands Holdings BV business or the GLO BidCo S.å r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses;

- (ii) interruptions of the Mallinckrodt Netherlands Holdings BV business or the GLO BidCo S.à r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented them 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 Mallinckrodt Netherlands Holdings BV business or the GLO BidCo S.à r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses; or
- (iv) substantial changes in the Mallinckrodt Netherlands Holdings BV or GLO BidCo S.à r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses' contractual arrangements or relationships with key suppliers.

(o) *[list of material developments]*

- 3. The GLO BidCo S.à r.l., IBA Pharma SA and GLO Dutch Bidco B.V. businesses and its subsidiaries remain in full compliance with the Order and will, or will procure that the Mallinckrodt Netherlands Holdings BV, continue actively to keep the CMA informed of any material developments relating to the Mallinckrodt Netherlands Holdings BV or the parent 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 X

Signature

Name

Title

Date