

COMPLETED ACQUISITION BY SSCP SPRING TOPCO LIMITED OF ACORN CARE AND EDUCATION

Undertakings given by SSCP Spring Topco Limited to the Competition and Markets Authority pursuant to section 73 of the Enterprise Act 2002

Please note that [X] indicates figures or text which have been deleted or replaced in ranges at the request of the parties for reasons of commercial confidentiality.

Whereas:

- (a) SSCP Spring Topco Limited (**SSCP Spring**), a holding company in the National Fostering Agency Group (**NFA**) on 3 August 2016 completed the acquisition (through SSCP Spring Bidco Limited) of the entire issued share capital of Acorn Care 1 Limited (**Acorn**) (the **Transaction**) such that SSCP Spring and Acorn ceased to be distinct for the purposes of the Enterprise Act 2002 (the **Act**). SSCP Spring, NFA and Acorn are referred to collectively as the **Parties**;
- (b) Under section 22(1) of the Act the Competition and Markets Authority (**CMA**) has a duty to refer a relevant merger situation for a Phase 2 investigation where it believes that it is or may be the case that the creation of that merger situation has resulted or may be expected to result in a substantial lessening of competition within any market or markets in the UK for goods or services;
- (c) Under section 73 of the Act the CMA may, instead of making such a reference and for the purpose of remedying, mitigating or preventing the substantial lessening of competition concerned or any adverse effect which has or may have resulted from it or may be expected to result from it, accept undertakings to take such action as it considers appropriate, from such of the parties concerned as it considers appropriate. In particular, the CMA shall have regard to the need to achieve as comprehensive a solution as is reasonable

and practicable to the substantial lessening of competition and any adverse effects resulting from it;

- (d) As set out in the CMA's decision of 30 January 2017 (the **Decision**), the CMA believes that, in the absence of appropriate undertakings, it would be under a duty to refer the Transaction for a Phase 2 investigation;
- (e) The CMA considers that the undertakings given below by SSCP Spring are appropriate to remedy, mitigate or prevent the substantial lessening of competition, or any adverse effect which has or may have resulted from the Transaction, or may be expected to result from it, as specified in the Decision;
- (f) Prior to the acceptance of these undertakings by the CMA, NFA entered into legally binding agreements with BSN Social Care Limited ("**BSN**") of 5 June 2017 to divest the Wales, Luton and Norfolk Divestment Businesses respectively as going concerns to BSN on terms approved by the CMA and with respect to the Luton and Norfolk Divestment Businesses used all reasonable endeavours to gain in principle acceptance from the relevant carers and local authorities. These agreements were conditional only on formal CMA approval of BSN and acceptance by the CMA of these undertakings, and NFA entered into them having satisfied the CMA that BSN has the financial resources, expertise (including the managerial, operational and technical capability), incentive and intention to maintain and operate the respective Divestment Businesses as part of a viable and active independent fostering agency business in competition with NFA and other rivals in the independent fostering agency market in the relevant Local Authority Framework areas.
- (g) The CMA made an Initial Enforcement Order applying to Stirling Square Capital Partners LLP, Stirling Square Capital Partners Holdings Limited, Stirling Square Capital Partners Second Fund Holdings Limited and Stirling Square Capital Partners Third Fund Holdings Limited (collectively the **Stirling Group**) and SSCP Spring on 8 September 2016 in respect of the Transaction pursuant to section 72 of the Act for the purposes of preventing pre-emptive action. Pursuant to section 72(6)(b) of the Act, this Initial Enforcement Order ceases to be in force on the acceptance by the CMA of the undertakings given below by SSCP Spring.

NOW THEREFORE SSCP Spring hereby gives to the CMA the following undertakings for the purpose of remedying, mitigating or preventing the substantial lessening of competition, or any adverse effect which has or may have resulted from it or may be expected to result from it.

EFFECTIVE DATE OF THE UNDERTAKINGS

- 1.1 These undertakings shall take effect from the date that, having been signed by SSCP Spring, they are accepted by the CMA.

PART I WALES

2 DIVESTMENT OF THE WALES DIVESTMENT BUSINESS

- 2.1 SSCP Spring shall ensure that the completion of the divestment of the Wales Divestment Business to BSN contemplated by the agreement referred to in recital (f) of these undertakings takes place within a period not exceeding [✂] from the date these undertakings take effect.
- 2.2 SSCP Spring shall use all reasonable endeavours to ensure the retention and transfer of Key Staff, social workers and foster carers within the Wales Divestment Business including, to the extent necessary, [✂].
- 2.3 In the event that (i) SSCP Spring fails to complete the divestment of the Wales Divestment Business in accordance with paragraphs 2.1 and 2.2 above, the CMA may, whether or not initiating the Divestiture Trustee Functions as set out in paragraph 4 below, require SSCP Spring to divest the Wales Divestment Business as a going concern at no minimum price to a purchaser or purchasers approved by the CMA.

PART II NORFOLK AND LUTON

3 DIVESTMENT OF THE RESPECTIVE NORFOLK AND LUTON DIVESTMENT BUSINESSES

- 3.1 SSCP Spring shall ensure that the completion of the divestment of the respective Norfolk and Luton Divestment Businesses to BSN contemplated by the agreements referred to in recital (f) of these undertakings takes place as soon as possible and in any event within a period not exceeding [✂] from the date these undertakings take effect.
- 3.2 SSCP Spring shall use all reasonable endeavours to ensure the retention and transfer of relevant carers and Transferring Staff within the respective Norfolk and Luton Divestment Businesses including, to the extent necessary, [✂].
- 3.3 SSCP Spring shall use all reasonable endeavours to obtain the required Local Authority and carer consents to effect the divestment of the Norfolk and Luton Divestment Businesses.
- 3.4 In the event that (i) SSCP Spring fails to complete the divestment of the Norfolk and Luton Divestment Businesses in accordance with paragraphs 3.1 to 3.3 above, the CMA may, whether or not initiating the Divestiture Trustee Functions as set out in paragraph 4 below, require SSCP Spring to divest the Norfolk and Luton Divestment Businesses as a going concern at no minimum price to a purchaser or purchasers approved by the CMA.

PART III – GENERAL PROVISIONS APPLYING TO ALL SLC AREAS

4 APPROVAL OF PURCHASER AND TERMS OF DIVESTMENT

4.1 For the purposes of the CMA approving BSN as a purchaser of each of the Divestment Businesses in accordance with these undertakings, SSCP Spring shall for each Divestment Business, save as required or permitted by the CMA, satisfy the CMA that:

- (a) the acquisition by BSN of the Divestment Business, in the terms set out above, remedies, mitigates or prevents the substantial lessening of competition concerned or any adverse effect which has or may have resulted from it, or may be expected to result from it, in particular having regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the substantial lessening of competition and any adverse effects resulting from it;
- (b) BSN is independent of and unconnected to SSCP Spring and the Group of Interconnected Bodies Corporate to which SSCP Spring belongs and any Associated Person or Affiliate of SSCP Spring or such Group of Interconnected Bodies Corporate;
- (c) BSN has the financial resources, expertise (including the managerial, operational and technical capability), incentive and intention to maintain and operate the Divestment Business as a viable and active business in competition with SSCP Spring and other competitors in the independent foster care market from the date of completion of the divestment of the Divestment Business;
- (d) BSN is reasonably to be expected to obtain all necessary approvals, licences and consents from any regulatory or other authority, including (where applicable) landlord's consent to the transfer of any leasehold interest; and
- (e) the acquisition by BSN of the Divestment Business does not create a realistic prospect of a substantial lessening of competition within any market or markets in the UK.

4.2 The CMA may require SSCP Spring to provide it with such information and documentation as it may reasonably require to satisfy the CMA that the BSN will fulfil the requirements in paragraph 13.1 above, including by using all reasonable endeavours to provide the CMA in writing with relevant carer and Local Authority in principle consent.

5 COMPLIANCE WITH TERMS OF THE TRANSITIONAL SERVICES AGREEMENT

- 5.1 SSCP Spring shall, as appropriate, enter into the Transitional Services Agreement with BSN or other purchaser in the form agreed by the CMA and shall comply with the terms of that agreement.
- 5.2 In the event that SSCP Spring fails to comply with the terms of the Transitional Services Agreement to the satisfaction of the CMA, the CMA may give written directions to SSCP Spring to take such steps as may be specified or described in the directions for the purpose of securing SSCP Spring's compliance with its obligations under the Transitional Services Agreement.

6 APPOINTMENT OF A MONITORING TRUSTEE

- 6.1 On 1 March 2017 the CMA issued written Directions for the appointment of a monitoring trustee under paragraph 10 of the Initial Enforcement Order of 8 September 2016. The CMA has permitted SSCP Spring to terminate the monitoring trustee mandate on acceptance of these undertakings. In order to monitor the implementation of these undertakings, the CMA may require SSCP Spring to re-appoint a Monitoring Trustee approved by the CMA on terms approved by the CMA. The re-appointment shall take effect within 5 Working Days of the CMA notifying SSCP Spring in writing that it must appoint a monitoring trustee.
- 6.2 SSCP Spring and/or any individuals nominated pursuant to paragraph 6.1 shall satisfy the CMA that, save as required or permitted by the CMA:
- (a) such nominated individuals have knowledge of fostering services;
 - (b) such nominated individuals are each independent of SSCP Spring and of the Group of Interconnected Bodies Corporate to which SSCP Spring belongs and of any Associated Person or Affiliate of SSCP Spring or of such Group of Interconnected Bodies Corporate and of BSN pursuant to these undertakings, and, in the reasonable opinion of SSCP Spring, are appropriate to be appointed as Monitoring Trustee; and
 - (c) such nominated individuals neither are, nor are likely to become, exposed, either directly or indirectly, to a conflict of interest that impairs or may be likely to impair their objectivity or independence in discharging the Monitoring Trustee Functions.
- 6.3 The appointment of the Monitoring Trustee shall be irrevocable unless:

- (a) a conflict of interest that impairs or may be likely to impair the objectivity or independence of the Monitoring Trustee in discharging the Monitoring Trustee Functions arises;
- (b) the Monitoring Trustee ceases to perform the Monitoring Trustee Functions; or
- (c) the CMA is otherwise satisfied that there is good cause for the appointment to be terminated in advance of the satisfactory fulfilment of the Monitoring Trustee Functions.

6.4 In the event that the appointment of the Monitoring Trustee is terminated in accordance with paragraph 6.3 above, SSCP Spring shall, if requested to do so in writing by the CMA, use its best endeavours to appoint from persons nominated by the CMA a person to carry out the Monitoring Trustee Functions in accordance with such mandate as is approved by the CMA. SSCP Spring shall use its best endeavours to make such appointment within seven Working Days of receiving the nominations from the CMA. Where required by the CMA, the outgoing Monitoring Trustee shall continue as Monitoring Trustee until a new Monitoring Trustee is in place and a full handover of all relevant information has taken place.

7 OBLIGATIONS OF SSCP SPRING FOLLOWING REAPPOINTMENT OF A MONITORING TRUSTEE

- 7.1 SSCP Spring shall not give any instruction or request to the Monitoring Trustee which conflicts with the Monitoring Trustee Functions.
- 7.2 SSCP Spring shall take all such steps as are reasonably necessary to enable the Monitoring Trustee to carry out the Monitoring Trustee Functions, including but not limited to providing the Monitoring Trustee with all such assistance and information as it may reasonably require in carrying out the Monitoring Trustee Functions.

8 REMUNERATION OF MONITORING TRUSTEE

- 8.1 SSCP Spring shall pay the Monitoring Trustee a reasonable remuneration for the services it provides in carrying out the Monitoring Trustee Functions, and shall pay the Monitoring Trustee in a way that does not impede the independent and effective fulfilment of the Monitoring Trustee Functions, which shall be set out in the Monitoring Trustee's mandate referred to in paragraph 6.1 above.

9 APPOINTMENT OF A DIVESTITURE TRUSTEE

- 9.1 The provisions of paragraph 9.2 to 9.7 below shall apply only as long as SSCP Spring has not satisfied, or where the CMA has reasonable grounds for believing that SSCP Spring will not satisfy, all or any part of the obligation to divest the Divestment Business in accordance with paragraphs 2 and 3 above.
- 9.2 Within 5 Working Days of the CMA notifying SSCP Spring in writing that it must do so, SSCP Spring shall propose to the CMA for approval:
- (a) the names of at least two individuals to exercise the Divestiture Trustee Functions; and
 - (b) the full terms of a mandate in accordance with which the Divestiture Trustee shall carry out the Divestiture Trustee Functions.
- 9.3 SSCP Spring and/or any individuals nominated pursuant to paragraph 9.2 shall satisfy the CMA that, save as required or permitted by the CMA:
- (a) such nominated individuals have the necessary qualifications to carry out their mandates, and are employees or partners of an investment bank, retail bank, commercial property agent, building society or law firm or accountancy firm with an established reputation either nationwide or in a substantial part of the UK or in another EU member state;
 - (b) such nominated individuals are each independent of SSCP Spring and of the Group of Interconnected Bodies Corporate to which SSCP Spring belongs and of any Associated Person or Affiliate of SSCP Spring or of such Group of Interconnected Bodies Corporate and of any proposed purchaser of the Divestment Businesses to be sold pursuant to these undertakings, and, in the reasonable opinion of SSCP Spring, are appropriate to be appointed as Divestiture Trustee; and
 - (c) such nominated individuals neither are, nor are likely to become, exposed, either directly or indirectly, to a conflict of interest that impairs or may be likely to impair their objectivity or independence in discharging the Divestiture Trustee Functions.
- 9.4 Within 2 Working Days of the CMA approving, at its discretion, one or more of the persons nominated by SSCP Spring and their proposed mandates pursuant to paragraph 9.2 above, and subject to any modifications the CMA deems necessary for the Divestiture Trustee to carry out the Divestiture Trustee Functions, SSCP Spring shall use its best endeavours to appoint from the persons so approved one person to carry out the Divestiture

Trustee Functions in accordance with the mandate approved by the CMA pursuant to paragraph 9.2 above.

9.5 In the event that:

- (a) SSCP Spring fails to propose any person or persons in accordance with paragraph 9.2 above; or
- (b) none of the persons proposed by SSCP Spring pursuant to paragraph 9.2 is approved by the CMA; or
- (c) SSCP Spring is unable for any reason to appoint within the time limit stipulated in paragraph 9.4 above any such person following approval by the CMA,

SSCP Spring shall use its best endeavours to appoint from persons nominated by the CMA one person to carry out the Divestiture Trustee Functions on the terms of a mandate approved by the CMA. SSCP Spring shall use its best endeavours to make such appointment within 5 Working Days of receiving the nominations from the CMA.

9.6 The appointment of the Divestiture Trustee pursuant to paragraph 9.4 or paragraph 9.5 above shall be irrevocable unless:

- (a) a conflict of interest that impairs or may be likely to impair the objectivity or independence of the Divestiture Trustee in discharging the Divestiture Trustee Functions arises;
- (b) the Divestiture Trustee ceases to perform the Divestiture Trustee Functions; or
- (c) the CMA is otherwise satisfied that there is good cause for the appointment to be terminated in advance of the satisfactory fulfilment of the Divestiture Trustee Functions.

9.7 In the event that the appointment of the Divestiture Trustee is terminated in accordance with paragraph 9.6 above, SSCP Spring shall, if requested to do so in writing by the CMA, use its best endeavours to appoint from persons nominated by the CMA one person to carry out the Divestiture Trustee Functions in accordance with such mandate as is approved by the CMA. SSCP Spring shall use its best endeavours to make such appointment within seven Working Days of receiving the nominations from the CMA. Where required by the CMA, the outgoing Divestiture Trustee shall continue as Divestiture Trustee until a new Divestiture Trustee is in place and a full handover of all relevant information has taken place.

10 THE MANDATE

- 10.1 The terms of the mandate proposed by SSCP Spring pursuant to paragraph 9.2 above shall, as a minimum, contain all provisions necessary to enable the Divestiture Trustee to carry out the Divestiture Trustee Functions including, without limitation to the generality of this paragraph:
- (a) an exclusive, irrevocable mandate to sell the Divestment Businesses as required by paragraph 11.1 below to a purchaser as directed or approved in writing in advance by the CMA at no minimum price and on such reasonable terms and conditions as the Divestiture Trustee considers appropriate to effect an expedient sale;
 - (b) a mandate to take any other steps necessary for, or incidental to, the Divestiture Trustee's mandate under sub-paragraph (a) above;
 - (c) a comprehensive power of attorney to the Divestiture Trustee (including the authority to grant sub-powers of attorney to the Divestiture Trustee's officers, employees and agents) to enable it to take all steps necessary or appropriate to effect the sale of the Divestment Businesses;
 - (d) a mandate to comply with any orders and/or directions given by the CMA; and
 - (e) a mandate to appoint at SSCP Spring's expense such advisers as the CMA and/or the Divestiture Trustee reasonably considers necessary or appropriate in connection with the performance of the Divestiture Trustee Functions.

11 FUNCTIONS OF DIVESTITURE TRUSTEE

- 11.1 In relation to the Divestment Businesses for which a Divestiture Trustee is appointed, the Divestiture Trustee shall seek to procure, within such period as may be specified in writing by the CMA, the completion of the sale of the Divestment Businesses at no minimum price, to a purchaser or purchasers approved by the CMA in accordance with paragraph 11.3 below.
- 11.2 Without prejudice to the generality of paragraph 11.1 above, the Divestiture Trustee shall take the following measures in relation to the Divestment Businesses to the extent to which such measures may be necessary to effect the divestment of the Divestment Businesses in accordance with the provisions of these undertakings:

- (a) the transfer or vesting of property, assets, rights, personnel, liabilities or obligations (including without prejudice any contracts, licences, authorisations, permits or consents);
 - (b) any other transfer of interests that will take effect with the sale;
 - (c) the adjustment of contracts, whether by discharge or reduction or assignment of any liability or obligation or otherwise;
 - (d) the creation, allotment, transfer, surrender or cancellation of any shares, stock or securities; and
 - (e) the formation or winding up of a company.
- 11.3 The Divestiture Trustee shall not sell or permit the divestment of the Divestment Business to a proposed purchaser unless it has been directed to do so by the CMA or has obtained the CMA's prior written approval in respect of the identity of that Proposed Purchaser. The Divestiture Trustee shall notify the CMA of the identity of a Proposed Purchaser as soon as reasonably practicable prior to the signing of a legally enforceable agreement and in any event at least 20 Working Days in advance of the proposed completion of the proposed sale and purchase agreement in question.
- 11.4 Pending the divestment of the Divestment Business pursuant to paragraph 6.1 above, the Divestiture Trustee shall monitor SSCP Spring's compliance with its obligations under paragraph 12.1 and paragraph 12.2 below and shall promptly take such measures as it considers necessary to ensure such compliance, as well as reporting in writing to the CMA, if the Divestiture Trustee concludes on reasonable grounds that SSCP Spring is failing or will fail to comply with such obligations.
- 11.5 The Divestiture Trustee may give written directions to SSCP Spring to take such steps as may be specified or described in the directions for the purpose of securing SSCP Spring's compliance with its obligations under these undertakings or enabling the Divestiture Trustee to carry out the Divestiture Trustee Functions. The Divestiture Trustee may not require SSCP Spring to:
- (a) offer any reverse premium or similar inducement to a purchaser; or
 - (b) accept any actual or contingent liability towards a purchaser or otherwise in connection with the divestment of the Divestment Business which would be unusual in scope, duration or financially, having regard to the price and usual market practice in relation to similar disposals.

- 11.6 The Divestiture Trustee shall, as soon as reasonably practicable, comply at all times with any reasonable instructions or written directions made by the CMA for the purposes of carrying out or securing compliance with the undertakings (or any matter incidental thereto) and shall provide to the CMA such information and reports in relation to the carrying out of the Divestiture Trustee Functions as the CMA may require. The Divestiture Trustee shall promptly report in writing to the CMA if the Divestiture Trustee concludes on reasonable grounds that SSCP Spring is failing or will fail to comply with any of its obligations under these undertakings.
- 11.7 For the purpose of fulfilling the Divestiture Trustee Functions, the Divestiture Trustee shall not be bound by instructions of SSCP Spring nor shall the Divestiture Trustee Functions be extended or varied in any way by SSCP Spring save with the prior express written consent of the CMA.

12 OBLIGATIONS OF SSCP SPRING FOLLOWING APPOINTMENT OF DIVESTITURE TRUSTEE

- 12.1 SSCP Spring shall not give any instruction or request to the Divestiture Trustee which conflicts with the Divestiture Trustee Functions.
- 12.2 SSCP Spring shall take all such steps as are reasonably necessary to enable the Divestiture Trustee to carry out the Divestiture Trustee Functions, including but not limited to:
- (a) complying with such written directions as the Divestiture Trustee may from time to time give pursuant to paragraph 6.6 above; and
 - (b) providing the Divestiture Trustee with all such assistance and information as it may reasonably require in carrying out the Divestiture Trustee Functions.

13 REMUNERATION OF DIVESTITURE TRUSTEE

- 13.1 SSCP Spring shall pay the Divestiture Trustee a reasonable remuneration for the services it provides in carrying out the Divestiture Trustee Functions, and shall pay the Divestiture Trustee in a way that does not impede the independent and effective fulfilment of the Divestiture Trustee Functions, which shall be set out in the Divestiture Trustee's mandate referred to in paragraph 10 above.

14 INTERIM ACTION

- 14.1 Pending the completion of the divestment of the Divestment Businesses to the satisfaction of the CMA in accordance with the provisions of these undertakings, save as otherwise agreed in advance in writing by the CMA, SSCP Spring shall minimise as far as possible any risk of loss of competitive potential of the Divestment Businesses and in particular ensure that:
- (a) the Divestment Businesses are carried on separately from the SSCP Spring Business and the Divestment Businesses' separate sales or brand identity is maintained;
 - (b) the Divestment Businesses and the SSCP Spring Business are maintained as a going concern and sufficient resources are made available for the development of the Divestment Businesses, on the basis of its respective pre-Transaction 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 Divestment Businesses;
 - (d) the nature, description, range and quality of services supplied in the UK the Divestment Businesses is maintained and preserved;
 - (e) except in the ordinary course of business for the separate operation of the Divestment Businesses and the SSCP Spring Business:
 - (i) all of the assets of the Divestment Businesses and the SSCP Spring Business are maintained and preserved, including facilities and goodwill;
 - (ii) none of the assets of the Divestment Businesses are disposed of; and
 - (iii) no interest in the assets of the Divestment Businesses is created or disposed of;
 - (f) there is no integration of the information technology of the Divestment Businesses and SSCP Spring Businesses, and the software and hardware platforms of the Divestment Businesses shall remain essentially unchanged, except for routine changes and maintenance;
 - (g) the customer and supplier lists of the Divestment Businesses and the SSCP Spring Business shall be operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Divestment Businesses will be carried out by the Divestment Businesses alone and for the avoidance of doubt the SSCP

Spring Business will not negotiate on behalf of the Divestment Businesses (and vice versa) or enter into any joint agreements with the Divestment Businesses (and vice versa);

- (h) all existing contracts of the Divestment Businesses continue to be serviced by the business to which they were awarded;
- (i) no changes are made to Key Staff of the Divestment Businesses;
- (j) no Key Staff are transferred between the Divestment Businesses and the SSCP Spring Business;
- (k) all reasonable steps are taken to encourage all Key Staff to remain with the Divestment Businesses; and
- (l) no Confidential Information relating to either of the Divestment Businesses or the SSCP Spring Business shall pass, directly or indirectly, from the Divestment Businesses (or any of its employees, directors, agents or affiliates) to the SSCP Spring 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, insurance and/or accounting obligations) or any steps necessary in order for SSCP Spring to comply with these undertakings, including the transfer of information necessary for the divestment process, provided that, upon divestment of the Divestment Businesses, any records or copies (electronic or otherwise) of Confidential Information held by SSCP Spring in relation to the Divestment Businesses (or vice versa) shall be returned to the relevant business and any copies destroyed (except as may be necessary for the purposes of compliance with the obligations above).

14.2 At all times, SSCP Spring will actively keep the CMA informed of any material developments relating to the Divestment Businesses, which includes, but is not limited to:

- (a) details of Key Staff who leave the Divestment Businesses;
- (b) any interruption of the Divestment Businesses (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 lost by the Divestment Businesses; and

- (d) substantial changes in the Divestment Businesses' contractual arrangements or relationships with key suppliers.

15 CONTINUED SEPARATION

15.1 Except with the prior written consent of the CMA, for a period of 10 years following the divestment of the Divestment Businesses pursuant to these undertakings, SSCP Spring, or any member of the Group of Interconnected Bodies Corporate to which SSCP Spring belongs:

- (a) shall not, directly or indirectly, hold, acquire, re-acquire or use:
 - (i) an Interest in any Divestment Business; or
 - (ii) any Interest in any company carrying on or having Control of a Divestment Business (other than any investments made in the ordinary course of the operation of any of the employee benefit and pension schemes of SSCP Spring or of any members of the Group of Interconnected Bodies Corporate to which SSCP Spring belongs of not more than three per cent in aggregate of the issued equity share capital in any such company, whose shares are listed or dealt with on any recognised investment exchange, which carries no more than three per cent of the voting rights exercisable at meetings of such company); or
 - (iii) other than in the normal course of business, any of the assets of any Divestment Business;
- (b) shall procure that no employee or director of SSCP Spring or any member of the Group of Interconnected Bodies Corporate to which SSCP Spring belongs for as long as they are an employee or director of SSCP Spring or any member of the Group of Interconnected Bodies Corporate to which SSCP Spring belongs holds or is nominated to any directorship or managerial position in any Divestment Business or directorship or managerial position in any company or other undertaking carrying on or having control of any Divestment Business without the CMA's prior written consent;
- (c) shall not participate in the formulation of, or (other than in the ordinary course of business) influence or attempt to influence, the policy of the Divestment Business or any company or other undertaking carrying on or having control of any Divestment Business; and
- (d) shall not enter into or carry out any agreement or arrangement with any person, if the carrying out of the agreement or arrangement is intended

to result or will result in any Associated Person or Affiliate of SSCP Spring or of any member of the Group of Interconnected Bodies Corporate to which SSCP Spring belongs directly or indirectly acquiring any Divestment Business or doing any of the things listed in subparagraphs 15.1(a), 15.1(b) and 15.1(c) above.

- 15.2 The provisions of 15.1 above shall not apply to SSCP Spring and its Group of Interconnected Bodies Corporate to the extent it has disposed of its interests in NFA and Acorn.

16 COMPLIANCE

- 16.1 SSCP Spring shall comply promptly with such written directions as the CMA may from time to time give:
- (a) to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with these undertakings; or
 - (b) to do or refrain from doing anything so specified or described which it might be required by these undertakings to do or to refrain from doing.
- 16.2 SSCP Spring shall co-operate fully with the CMA when the CMA is:
- (a) monitoring compliance with the provisions of these undertakings; and
 - (b) investigating potential breaches of the provisions of these undertakings.
- 16.3 SSCP Spring shall procure that any member of the same Group of Interconnected Bodies Corporate as SSCP Spring complies with these undertakings as if it had given them and actions and omissions of the members of the same Group of Interconnected Bodies Corporate as SSCP Spring shall be attributed to SSCP Spring for the purposes of these undertakings.
- 16.4 Where any Affiliate of SSCP Spring is not a member of the same Group of Interconnected Bodies Corporate as SSCP Spring, SSCP Spring shall use its best endeavours to procure that any such Affiliate shall comply with these undertakings as if it had given them.

17 PROVISION OF INFORMATION

- 17.1 SSCP Spring shall furnish promptly to the CMA such information as the CMA considers necessary in relation to or in connection with the implementation

and/or enforcement of and/or the compliance with these undertakings, including for the avoidance of doubt, any Confidential Information.

18 EXTENSION OF TIME LIMITS

- 18.1 The CMA may, in response to a written request from SSCP Spring, or otherwise at its own discretion, grant an extension to any time period referred to in these undertakings.

19 SERVICE

- 19.1 SSCP Spring hereby authorises Linklaters LLP, whose address for service is One Silk Street, London, EC2Y 8HQ, to accept service on its behalf of all documents connected with these undertakings (including any document of any kind which falls to be served on or sent to SSCP Spring, or any of its Subsidiaries in connection with any proceedings in Courts in the UK, orders, requests, notifications or other communications connected with these undertakings).
- 19.2 Unless SSCP Spring inform the CMA in writing that Linklaters LLP has ceased to have authority to accept and acknowledge service on its or any of its Subsidiaries' behalf, any document, order, request, notification or other communication shall be validly served on SSCP Spring if it is served on Linklaters LLP; and service shall be deemed to have been acknowledged by SSCP Spring if it is acknowledged by Linklaters LLP or such other nominee.
- 19.3 Paragraph 19.2 above has effect irrespective of whether, as between SSCP Spring and Linklaters LLP or other nominees, Linklaters LLP or other nominees has or continues to have any authority to accept and acknowledge service on SSCP Spring 's or any of its respective Subsidiaries' behalf.
- 19.4 No failure or mistake by Linklaters LLP or other nominees (including a failure to notify SSCP Spring of the service of any document, order, request, notification or other communication) shall invalidate any action taken in respect of these undertakings including any proceedings or judgment.
- 19.5 Any communication from SSCP Spring to the CMA under these undertakings shall be addressed to Manager, Market and Mergers Remedies Monitoring, Competition and Markets Authority, Victoria House, Southampton Row, London WC1B 4AD or such other person or address as the CMA may direct in writing.

20 EFFECT OF INVALIDITY

- 20.1 Should any provision of these undertakings be contrary to law or invalid for any reason, SSCP Spring undertake to continue to observe the remaining provisions.

21 GOVERNING LAW

- 21.1 SSCP Spring recognises and acknowledges that these undertakings shall be governed and construed in all respects in accordance with English law.
- 21.2 In the event that a dispute arises concerning these undertakings, SSCP Spring undertakes to submit to the courts of England and Wales.

22 TERMINATION

- 22.1 SSCP Spring recognises and acknowledges that these undertakings shall be in force until such time as they are varied, released or superseded under the Act.
- 22.2 SSCP Spring recognises and acknowledges that the variation, release or supersession of these undertakings shall not affect the validity and enforceability of any rights or obligations that arose prior to such variation, release or supersession.

23 INTERPRETATION

- 23.1 The Interpretation Act 1978 shall apply to these undertakings as it does to Acts of Parliament.
- 23.2 References in these undertakings to any English law term for any legal status, interest, concept or thing shall in respect of any jurisdiction other than England and Wales be deemed to include what most nearly approximates in that jurisdiction to the English law term.
- 23.3 In these undertakings the word "including" shall mean including without limitation or prejudice to the generality of any description, definition, term or phrase preceding that word and the word "include" and its derivatives shall be construed accordingly.
- 23.4 For the purposes of these undertakings:

“the Act” means the Enterprise Act 2002;

“Acorn” means Acorn Care 1 Limited, company number 07121783;

“Affiliate” a person is an affiliate of another person if they or their respective enterprises would be regarded as being under common control for the purposes of section 26 of the Act;

“Associated Person” means a person or persons associated with SSCP Spring within the meaning of section 127(4) of the Act and includes any Subsidiary of such a person or persons;

“BSN” means BSN Social Care Limited (Company number 09092445) and all its subsidiaries, and in particular Nexus Fostering Limited (Company number 05577806), the entity acquiring the Luton and Norfolk Divestment Businesses;

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

“CMA” means the Competition and Markets Authority or any successor body;

“Confidential Information” means any business secrets, know-how, commercially sensitive information, intellectual property or any other information of a confidential or proprietary nature;

“Control” shall be construed in accordance with section 26 of the Act, and in the case of a body corporate, a person shall be deemed to Control it if he holds, or has an interest in, shares of that body corporate amounting to 10 per cent or more of its issued share capital or carrying an entitlement to vote at meetings of that body corporate of 10 per cent or more of the total number of votes which may be cast at such meetings;

“Decision” means the CMA’s decision under section 22 of the Act dated 30 January 2017 in connection with the Transaction;

“Divestment Businesses” means as the case may be one or more of the Wales Divestment Business, the Norfolk Divestment Business and/or the Luton Divestment Business (each a **“Divestment Business”**);

“Divestment Business Property” means the relevant property associated with the Divestment Businesses as at the date of these undertakings;

“Divestment Period” means the period of time determined by the CMA and notified in writing to SSCP Spring by the CMA;

“Divestiture Trustee” means the person appointed pursuant to paragraph 4.4, paragraph 4.5 or paragraph 4.7 to carry out the Divestiture Trustee Functions;

“Divestiture Trustee Functions” means the functions set out in paragraph 9;

“enterprise” has the meaning given in section 129(1) of the Act;

“Group of Interconnected Bodies Corporate” has the meaning given in section 129(2) of the Act; references to a Group of Interconnected Bodies Corporate shall be to the Group of Interconnected Bodies Corporate as constituted from time to time;

“Interest” includes shares, an interest in shares and any other interest carrying an entitlement to vote at shareholders’ meetings but does not include a contract to acquire shares in the future; and for this purpose "an interest in shares" includes an entitlement by a person other than the registered holder, to exercise any right conferred by the holding of these shares or an entitlement to Control the exercise of such right;

“Key Staff” means staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the relevant Divestment Business;

“Luton Divestment Business” means all relevant carer capacity and any related employees or assets that may be required by BSN or any other purchaser and in particular as set out in Annex 1, including:

(1) the carer capacity representing the competitive constraint which would have been imposed by Acorn absent the Transaction. This shall comprise in its totality, unless otherwise agreed in writing by the CMA:

(a) each Acorn foster carer resident both within and outside the geographic boundary of Luton Borough Council, Bedford Borough Council or Central Bedfordshire Council, with the exception of any carer registered with Heath Farm, who had (a) foster placement(s) as at 30 January 2017 that was made by Luton Borough Council, Bedford Borough Council or Central Bedfordshire Council; and

(b) each Acorn foster carer whose principal residence on 30 January 2017 was within the geographic boundary of Luton Borough Council, Bedford Borough Council or Central Bedfordshire Council and who did not have a foster placement on 30 January 2017; and

(c) each Acorn foster carer (i) whose principal residence on 30 January 2017 was within the geographic boundary of Luton Borough Council, Bedford Borough Council or Central Bedfordshire Council

and (ii) whose only foster placement(s) on the same date is from a Local Authority other than Luton Borough Council, Bedford Borough Council or Central Bedfordshire Council; and (iii) in the reasonable opinion of the CMA and on the advice of the Monitoring Trustee, is realistically likely to be available for (a) Luton Borough Council, Bedford Borough Council or Central Bedfordshire Council placement(s) in the near future; and

(d) where necessary, certain NFA Group foster carers registered with the relevant NFA brand offices serving the Luton Framework Agreement at 30 January 2017, to be identified by the NFA Group in consultation with the CMA, to substitute any Acorn foster carers described in (1)(a)-(c) above that do not or will not transfer to BSN or other purchaser of the Luton Divestment Business in accordance with paragraph 3.1 and 3.2, the total number of which shall in any event not exceed the total number of carers that, notwithstanding they formed part of the Luton Divestment Business, do not or will not transfer in accordance with paragraph 3.1 and 3.2; and

(2) such additional ancillary assets and Transferring Staff as agreed with BSN or other purchaser of the Luton Divestment Business.

“Luton Framework” means the relevant Local Authority consortium relating to Luton Borough Council, Bedford Borough Council and Central Bedfordshire Council and responsible for the procurement of independent fostering agency services;

“Monitoring Trustee” means the person appointed pursuant to paragraph 6.4, paragraph 6.5 or paragraph 6.7 to carry out the role specified in the mandate referred to in paragraph 6.2;

“Monitoring Trustee Functions” means the functions necessary to carry out the role specified in the mandate referred to in paragraph 6;

“NFA” means the National Fostering Agency group, which comprises Belton Associates (Group Holdings) Limited (Company 07875698) and all its subsidiaries.

“Norfolk Divestment Business” means all relevant carer capacity and any related employees or assets that may be required by BSN or any other purchaser and as set out in Annex 2, including:

(1) the carer capacity representing the competitive constraint which would have been imposed by Acorn absent the Transaction. This shall comprise in its totality, unless otherwise agreed in writing by the CMA:

- (a) each Acorn foster carer resident both within and outside the geographic boundary of Norfolk County Council with the exception of any carer registered with Heath Farm, who had (a) foster placement(s) as at 30 January 2017 that was made by Norfolk County Council; and
 - (b) each Acorn foster carer whose principal residence on 30 January 2017 was within the geographic boundary of Norfolk County Council and who did not have a foster placement on 30 January 2017; and
 - (c) each Acorn foster carer (i) whose principal residence on 30 January 2017 was within the geographic boundary of Norfolk County Council and (ii) whose only foster placement(s) on the same date is from a Local Authority other than Norfolk County Council; and (iii) in the reasonable opinion of the CMA and on the advice of the Monitoring Trustee, is realistically likely to be available for (a) Norfolk County Council placement(s) in the near future; and
 - (d) where necessary, certain NFA foster carers registered with the relevant NFA brand offices serving the Norfolk Framework Agreement at 30 January 2017, to be identified by the NFA Group in consultation with the CMA, to substitute any Acorn foster carers described in (1)(a)-(c) above that do not or will not transfer to BSN or other purchaser of the Norfolk Divestment Business in accordance with paragraph 3.1 and 3.2, the total number of which shall in any event not exceed the total number of carers that, notwithstanding they formed part of the Norfolk Divestment Business, do not or will not transfer in accordance with paragraph 3.1 and 3.2; and
- (2) such additional ancillary assets and Transferring Staff as agreed with BSN or other purchaser of the Norfolk Divestment Business.

“Norfolk Local Authority” means Norfolk County Council;

“Parties” means SSCP Spring, NFA and Acorn;

“SSCP Spring” means SSCP Spring Topco Limited, company number 09248650;

“Subsidiary” shall be construed in accordance with section 1159 of the Companies Act 2006 (as amended), unless otherwise stated;

“the Transaction” has the meaning defined in recital (a) to these Undertakings;

“Transferring Staff” means such staff of the Luton and Norfolk Divestment Businesses, as agreed to form part of the Luton and/or Norfolk Divestment Businesses with BSN or another purchaser;

“Transitional Services Agreement” means an agreement whereby (at the request of BSN or another purchaser) SSCP Spring would continue to provide at the request of BSN or the other purchaser certain central functions or services for an agreed (short-term) period following completion of the disposals to BSN or another purchaser to enable a smooth transition of the Luton Divestment Business, the Norfolk Divestment Business and the Wales Divestment Business.

“UK” means the United Kingdom of Great Britain and Northern Ireland;

“Wales Divestment Business” means the entire issued share capital of Pathway Care Limited, company number 04792049.

“SSCP Spring” means SSCP Spring Topco Limited, company number 09248650

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

FOR AND ON BEHALF OF SSCP SPRING

Signature

Name

Title

Date

DATE ACCEPTED BY THE CMA: 9 June 2017

Annex 1

Luton Divestment Business

Carer Records

The details listed below relate to limbs (a) to (c) of the definition of Luton Divestment Business.

Carer ID number	Carer name	Local authority
[X]	[X]	Luton Borough Council
[X]	[X]	Bedford Borough Council Luton Borough Council
[X]	[X]	Luton Borough Council
[X]	[X]	Central Bedfordshire Council
[X]	[X]	Bedford Borough Council
[X]	[X]	Central Bedfordshire Council
[X]	[X]	Bedford Borough Council
[X]	[X]	Milton Keynes Social Services
[X]	[X]	Luton Borough Council
[X]	[X]	Central Bedfordshire Council
[X]	[X]	Luton Borough Council
[X]	[X]	Luton Borough Council
[X]	[X]	Luton Borough Council
[X]	[X]	Northamptonshire County Council
[X]	[X]	n/a
[X]	[X]	City of Westminster Council
[X]	[X]	Hertfordshire Social Services
[X]	[X]	Hertfordshire Social Services
[X]	[X]	n/a
[X]	[X]	n/a

Carer ID number	Carer name	Local authority
[X]	[X]	n/a
[X]	[X]	n/a
[X]	[X]	Milton Keynes Social Services
[X]	[X]	Northamptonshire County Council

Additional Carers

The details listed below relate to carers outside limbs (a)-(d) of the definition of Luton Divestment Business but included within that business by additional commercial agreement between the Parties to that agreement.

Carer ID number	Carer name	Local authority
[X]	[X]	Hertfordshire
[X]	[X]	Hertfordshire
[X]	[X]	Milton Keynes
[X]	[X]	Leicestershire

Annex 2

Norfolk Divestment Business

Carer Records

The details listed below relate to limbs (a) to (c) of the definition of Norfolk Divestment Business.

Carer ID number	Carer name	Local authority
[X]	[X]	Cambridgeshire County Council
[X]	[X]	Norfolk County Council
[X]	[X]	Norfolk County Council Suffolk County Council
[X]	[X]	Norfolk County Council
[X]	[X]	n/a
[X]	[X]	Norfolk County Council
[X]	[X]	Norfolk County Council
[X]	[X]	Norfolk County Council Metropolitan Borough of Sefton Council
[X]	[X]	n/a
[X]	[X]	Norfolk County Council
[X]	[X]	Norfolk County Council
[X]	[X]	Norfolk County Council
[X]	[X]	Norfolk County Council
[X]	[X]	Norfolk County Council
[X]	[X]	Norfolk County Council Suffolk County Council
[X]	[X]	Norfolk County Council
[X]	[X]	Norfolk County Council
[X]	[X]	n/a
[X]	[X]	Norfolk County Council
[X]	[X]	n/a

Carer ID number	Carer name	Local authority
[X]	[X]	Cambridgeshire County Council
[X]	[X]	Suffolk County Council
[X]	[X]	Poole Social Service Suffolk County Council
[X]	[X]	Norfolk County Council
[X]	[X]	Suffolk County Council Cambridgeshire County Council
[X]	[X]	n/a
[X]	[X]	Norfolk County Council
[X]	[X]	n/a
[X]	[X]	Metropolitan Borough of Sefton Council
[X]	[X]	Norfolk County Council
[X]	[X]	n/a
[X]	[X]	n/a
[X]	[X]	n/a
[X]	[X]	Norfolk County Council
[X]	[X]	n/a
[X]	[X]	n/a
[X]	[X]	Norfolk County Council
[X]	[X]	Suffolk County Council
[X]	[X]	Norfolk County Council
[X]	[X]	n/a
[X]	[X]	n/a
[X]	[X]	Suffolk County Council
[X]	[X]	Norfolk County Council
[X]	[X]	n/a